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Quebec (Province) laws, statutes, etc.
Codes, Municipal
THE MUNICIPAL CODE c†

OF THE
PROVINCE OF QUEBEC

AS AMENDED UP TO THE 1st OF JULY 1882

WITH

**THE QUEBEC LICENSE ACT, 1878; THE FIRST PART
OF THE QUEBEC ELECTION ACT, TOGETHER
WITH THE REPORTED DECISIONS RELATING
THERETO, AND AN ANALYTICAL INDEX.**

COMPILED BY

E. Lef. de BELLEFEUILLE

OF THE BAR OF MONTREAL.

—
SECOND EDITION.



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P R E F A C E .

The present work, which is intended for the use of officers of the rural municipalities as well as of members of the Bar, comprises the *Municipal Code of the Province of Quebec*, the *Quebec License Act*, and the first part of the *Quebec Election Act*, with all the amendments which have been made thereto up to and during the last session of the legislature. The compiler has also added the leading decisions rendered by the Courts of the Province concerning these matters.

It is of great importance that the working and administration of these laws, which concern a large majority of the inhabitants of the Province, should be facilitated as much as possible. It will no doubt be admitted that the book now offered to the public is calculated to promote this object. Every one understands that it is much more convenient for those who have occasion to consult the municipal laws, to find in their proper order the various statutes with their amendments, than to be obliged to look through some twenty books in order to ascertain the amendments. Moreover, in country places, every one has not at hand the complete collection of statutes ; and even if he has, a person not accustomed to the examination of the latter may easily make a mistake in the application of an amendment. These amendments, as every one is aware, have been very numerous of late years, especially those relating to the *Municipal Code* and the

License Act. It may be said in fact, that these laws have been completely modified since their first promulgation.

The editor of this volume published in 1879 a French edition of the same work, which was well received and speedily attained an extensive circulation in all parts of the Province. This success has induced him to believe that an English edition would not be altogether useless to the English speaking inhabitants of the Province, and he hopes that he may count upon their support in the present undertaking. It may be added that this work was decided on after repeated solicitations from the Eastern Townships and other parts of the Province where the English language is that of the majority.

Montreal, 26th October 1881.

MUNICIPAL CODE
OF THE
PROVINCE OF QUEBEC⁽¹⁾

PRELIMINARY TITLE.

EXTENT OF THE MUNICIPAL CODE ; DECLARATORY AND INTERPRETATIVE PROVISIONS.

1. The Municipal Code applies to all the territory of the province of Quebec, excepting the cities and towns incorporated by special statutes.

2. The territory subject to the provisions of the municipal code is divided into county municipalities.

County municipalities include country, village or town municipalities.

3. The inhabitants and the rate-payers of every county, country, village, and town municipality, form a corporation or body politic, known, as the case may be, as "The Corporation of or of the (*inserting here the name of the municipality as given in the first title of the first book of this code, without the words 'municipality of or of the.'*)"

4. Every such corporation, under its corporate name, has perpetual succession, and may :

(1) Act 34 Vict., cap. 68, assented to on the 24th December 1870, was put into force the 2nd November 1871, by proclamation dated on the 26th September 1871.

1. Acquire real or personal property by purchase, donation, devise, or otherwise, and hold and enjoy or alienate the same ;

2. Enter into contracts, transact, bind and oblige itself and others to itself within the limits of its functions ;

3. Sue and be sued in any cause and before any court of justice ;

4. And generally exercise all the powers vested in it or which are necessary for the accomplishment of the duties imposed upon it ;

(Added by 41-42 Vict., c. 10, s. 1.) 5. [To have a seal, of which however the use shall not be obligatory] (1).

5. By-laws, resolutions, *procès-verbaux* or acts of apportionment of municipal roads, bridges or water-courses, rolls, lists, and generally all orders respecting municipal matters in force at the time of the promulgation of this code, remain in force within the territorial divisions for which they were made, until repealed, amended or annulled, under the authority of this code, save in special cases otherwise provided for.

They are subject to the application of articles 100, 461, 698, and those thereunto following ; but the prescription of three months runs only from the date of the coming into force of this code.

6. Any oath required by the provisions of this code may be made before any warden, mayor, secretary-treasurer or justice of the peace, within their respective territorial jurisdictions.

(1) *Held* that a municipal corporation is not an officer or person fulfilling public duties or functions in the sense of art. 22, C. C. P.—*BLAIN VS. CORPORATION OF GRANBY, Rev. Lég., 180.*

Any person before whom any oath may be made is empowered, and required whenever he is called upon to do so, to administer the oath and deliver a certificate thereof to the party taking the same, without fee.

7. In any proceeding in which the rights of any municipal corporation are involved, no witness is inadmissible from the fact of his being an elector or a rate-payer of the municipality, or from his forming part of the municipal council.

8. Whenever any deposition or information is required to be given under oath, on behalf of any municipal corporation, such deposition or information may be given by any member or officer of the council.

9. Every justice of the peace and every person who refuses or neglects, without reasonable cause, to do any act or duty imposed upon him by the provisions of this code, or required of him in virtue of its provisions, incurs, over and above the damages caused, a penalty of not less than four or more than twenty dollars, except in cases otherwise provided for.

10. The lieutenant-governor by an order in council, may revoke any order in council made by him in municipal matters either before or after the coming into force of this code.

11. Every person who wilfully tears down, injures or defaces any document whatsoever posted up in any public place, under the authority of the provisions of this code, incurs a penalty of not less than one nor more than eight dollars for every offence.

12. Whenever, according to the provisions of this code or of municipal by-laws, it is declared that any person must sign his name to any document whatsoever, such person, if he is unable to write or sign his name, must affix his mark to such document, in the presence of a witness who signs.

This article does not apply to the head of the council, nor to municipal officers who, according to the provisions of this code, must be able to read and write.

13. The forms contained in the appendix to this code suffice in the cases for which they are given. Any other form, to the like effect, may also be employed.

14. Unnecessary allegations or expressions, used in any form or in any act whatsoever, in no manner affect the validity thereof, provided that, on their being set aside as surplusage, what is left is capable of being understood in the sense intended.

15. No act connected with municipal affairs, performed by a municipal council, its officers or any other person, is null or void solely on account of error or insufficiency in the designation of the corporation or of the municipality or of such act, or on account of insufficiency in or the omission of the declaration of the quality of such officers or person, provided no surprise or injustice result therefrom.

16. No objection founded upon form, or upon the omission of any formality even imperative, can be allowed to prevail in any action, suit or proceeding respecting municipal matters, unless substantial injustice would be done by rejecting such objection, or unless the formality omitted be such that its omission, according to the provisions of this code, would render null the proceedings or other municipal acts needing such formality. (1)

17. In all cases in which it is declared by the provisions of this code that any person to be capable of filling any municipal office, must know how to read

(1) Held : that art. 16, M. C., should be interpreted in a wide sense.—PARENT vs. LA CORPORATION DE LA PAROISSE DE ST. LAURENT, II *Québec L. Rep.*, 258.

and write, it is not sufficient that such person be only able to read print and to write or sign his name.

18. If in any article of this code, founded on the laws existing at the time of its promulgation, there is a difference between the French and English texts, that version shall prevail which is most consistent with the provisions of the existing laws.

If there be any such difference in an article modifying the existing laws, that version shall prevail, which, according to the ordinary rules of legal interpretation, is most consistent with the intention of the article.

19. The following expressions, terms and words, whenever they occur in this code, or in any municipal by-laws or other orders, have the meaning, signification and application, respectively assigned to them in this article, unless the context of the provision declares or indicates the contrary :

1. The word "municipality" means solely the territory erected for the purposes of municipal administration. In every municipality bounded by a navigable or floatable river, the limits of the municipality extend to the middle of such river.

2. The terms "rural municipality" or "country municipality," include and mean parish municipalities, municipalities of part of a parish, of a township, of part of a township, of united townships, and generally every local municipality other than town or village municipalities.

3. The adjective "local," when it qualifies the words "municipality," "corporation," "council," "councillor," refers indifferently to country, village or town councils, councillors, corporations or municipalities.

4. The word "parish," means any territory erected into a parish by civil authority.

5. The word "township" means any territory erected into a township by proclamation. The French word "canton" has the same meaning.

6. The word "district" means a judicial district established by law, and refers to the district in which the municipality is situated.

7. The word "county" means a territory erected into a county, for the purposes of parliamentary representation, in the Legislative Assembly of the province. If two or more counties are united to constitute an electoral division, the word "county" means each of such counties severally.

8. The term "chief-place" means the locality where the county council holds its sessions.

9. The terms "circuit court of the county" or "county circuit court" mean the circuit court in and for the county; and if there is more than one circuit court in the county, they include all that are therein established.

10. The terms "magistrate's court" or "magistrate's court of the county" mean the magistrate's court established in the county by proclamation of the lieutenant-governor and presided over by the district magistrate.

11. The words "head of the council" apply equally to the warden of a county and to the mayor of a local municipality; the terms "head of a corporation" or "head of a municipality" are also used. The person referred to by the word "head" performs his duties under the name peculiar to his office, either as mayor or as warden.

12. The term "member of the council" means the head of the council or any councillor of the municipality.

13. The term "justice of the peace" refers also to the head of the council acting *ex-officio* as justice of the peace, under article 125.

14. The word "session" employed alone refers indifferently to an ordinary or general session and a special session.

15. The term "municipal office" includes all the duties or functions discharged either by the members or officers of a municipal council.

16. The word "appointment" means and includes every election made by the municipal electors and every appointment made by the lieutenant-governor or by the municipal council, whenever, by the terms of the context, it does not refer specially to one of these cases. This provision applies also to the term "appoint" and its derivatives.

17. The term "taxable property" means and includes only such real property as is subject to municipal taxation, and such personal property as is declared taxable by article 710.

18. The word "owner" or "proprietor" means every one having the ownership or usufruct of taxable property or possessing or occupying the same as owner or proprietor, or occupying crown lands under a location ticket; it applies to all co-proprietors, and to every partnership, association, wooden or iron railway company, or corporation whatsoever.

19. (*As replaced by 45 Vic., c. 35, s. 1.*) The word "occupant" denotes the person who occupies any immovable under any title other than that of proprietor, tenant, or usufructuary, either in his own or his wife's name, and who dwells upon the same and derives all issue therefrom;

"19a. The word "tenant" includes also the person who is obliged to give to the proprietor any portion whatever of the fruits and revenues of the immovable occupied by him, and such tenant shall also dwell upon such property, saving the tenant of a store, farm, shop or office."

20. The word "absent" denotes all persons whose domicile is without the limits of the municipality, nevertheless any person, corporation, iron or wooden railway company, or any other company which has

any place of business whatever in the municipality is deemed present or domiciled in such municipality.

21. The word "rate-payer" means any proprietor, lessee, occupant or other individual, who, by reason of the taxable property which he possesses or occupies in a municipality, is liable for the payment of municipal taxes or for the construction or maintenance of municipal works by contributions in materials, labor or money.

22. The term "municipal tax" means and includes : 1—all taxes and contributions in money imposed by municipal councils or under *procès-verbaux* and acts of apportionment ; 2—all taxes and contributions in materials or labor imposed upon rate-payers for municipal works, under *procès-verbaux* or other municipal acts, and liquidated by a resolution of the council after special notice given to the rate-payers interested or by the judgment of any court ; 3—all duties, fines or penalties declared in express terms "to be assimilated to municipal taxes" by the provisions of this code, municipal by-laws or any other law whatever.

23. The word "range" refers to a succession of neighbouring lots usually abutting on the same line ; it means also a "concession" or a "row (*côte*)" taken in the same sense.

24. The words "real estate" or "land" mean all lands or parcels of land in a municipality, possessed or occupied by one person or by several persons conjointly, and include the buildings and improvements thereon.

25. The word "lot" means any land situated in any range as conceded or sold by the original title or by the oldest title that is to be found ; it includes any subdivisions of such land made since the said concession or sale, with the buildings and other improvements thereupon.

26. The term "municipal bridge" means any bridge of eight feet in span or more, under the management of a municipal corporation. It does not include the bridges mentioned in article 883.

27. The word "road" includes high-roads, streets, lanes, front roads, and local or county by-roads.

28. (*As substituted by 36 Vict., c. 21, s. 1.*) The term "boundary fence" means the fence dividing two public or private properties adjacent one to another.

29. The word "month" means a calendar month.

30. The expression "following day" does not mean nor include holidays, except when an act may be done upon a holiday.

31. The words "intoxicating liquors" or "strong liquors" mean all spirituous or malt liquors, all wines, and every mixture of liquors or drinks, whereof any part is intoxicating.

32. The word "bond" or "debenture" means and includes all debentures issued by municipal corporations for the purpose of raising money.

33. (*Added by 36 Vict., c. 21, s. 1.*) The term "municipal code" used in any act, statute, by-law, writing, procedure, or document whatever, is a sufficient citation and designation of the municipal code of the province of Quebec.

20. (*As amended by 41 Vict., c. 18, s. 1.*) Every lot or piece of land is described by its number and by the name of the range or street, or by the limits and abutments thereof, or in the manner prescribed by a resolution of the Council.

In every municipality included in a registration division, in which the provisions of article 2168 of the

Civil Code, respecting the plan and book of reference, are in force, the description of every lot of land is given by the corresponding number upon the plan and in the book of reference: if the land forms part of a numbered parcel of land, it is described by declaring that it forms part of such parcel of land; if it is composed of portions of more than one numbered parcel of land, it is described by declaring that it is so composed, and by indicating what portion of each numbered parcel of land it contains.

21. (*As substituted by 41 Vic., c. 18, s. 2.*) Every iron or wooden railway company shall construct and maintain all fences, roads, bridges, and water-courses on the properties possessed or occupied by them in a municipality, and shall be subject to the dispositions of the by-laws, *procès-verbaux* or other municipal enactments passed to that effect, even if such works for fences, roads, bridges and water-courses should not be of advantage to the company.

22. Such company or its taxable property cannot in any manner be made liable, in virtue of *procès-verbaux* or of by-laws made under articles 528, 794, 855 and 884, for works of such nature, or any land other than that owned or occupied by it, nor can it be subjected to the imposition or payment of taxes levied for works to municipal water-courses, bridges or roads, or to contribute to the building of any iron or wooden railway in the municipality.

Should such company neglect or refuse to perform the works for which it is liable, in virtue of the preceding article, within the prescribed delay, no municipal council or officer can perform such works or cause the same to be performed; but the company is liable, in addition to the damages occasioned by its neglect or refusal, to a fine of twenty dollars for each day during which such neglect or refusal continues.

22a. (*Added by 45 Vic., c. 35, s. 2.*) The provisions of the two preceding articles also apply to federal or local government railways, whether such railways be worked by the government or by private individuals.

BOOK FIRST.

ORGANIZATION OF MUNICIPAL CORPORATIONS.

TITLE FIRST.

ERECTION OF MUNICIPALITIES.

Preliminary Provision.

23. Every territory which, after this code comes into force, is declared by the provisions hereof to form of itself a distinct county or local municipality, dates its formation as such municipality, under its corporate name, from the first day of the month of January, following the time when such territory falls within the required conditions.

CHAPTER FIRST.

ERECTION OF COUNTY MUNICIPALITIES.

24. Every territory erected into a county, at or after the time when this code comes into force, for the purposes of parliamentary representation in the legislative assembly of the province, constitutes by itself a county municipality, under the name of "The municipality of the county of (*name of county*)."

A county united to another county, to constitute an electoral division, does not cease to form by itself a separate county municipality.

25. Nevertheless if any local municipality is situated partly in one county and partly in another, such

local municipality continues to form part of the county municipality in which it was placed under the law which established it.

CHAPTER SECOND.

ERECTION OF LOCAL MUNICIPALITIES.

SECTION I.

RURAL MUNICIPALITIES.

26. Every territory which, at the time when this code comes into force, has been erected in virtue of the consolidated municipal act of Lower Canada, or of any amendment, or subsequent special act, into a municipality of a parish, of part of a parish, of a township, of part of a township, of united townships, or into any country municipality whatsoever, continues to form a local municipality operating under the provisions of this code, under the name indicated by the law under which it was erected, until such time as it may be otherwise directed under the authority of this code.

Corporations or municipalities which have had rights and privileges conferred on them by special and exceptional provisions of law, continue in the enjoyment of the same, except in so far as the number of councillors is concerned, which must be in accordance with article 276.

27. All other territories, except those already erected into town or village municipalities, form, at the time when this code comes into force, or thereafter, local municipalities, under the subsequent provisions of this section, if they fall within the requirements to

this end necessary ; if not, they must be annexed to adjoining municipalities in the county, in virtue of the provisions of this section

28. Every territory not erected into a local municipality, or every territory of which the council is not organized, is, until it be annexed to an adjoining local municipality or until the council thereof be organized, administered and regulated by the county council and its officers, under their usual names and with the same privileges, rights and obligations, as if such council and officers were the local council and officers of such territory.

The inhabitants and rate-payers of such territory so governed by the county council and its officers are alone subject to all municipal obligations arising either from the law or from the municipal acts in force therein, in the same manner as if such territory was organized into a municipal corporation.

§ I.

Of Municipalities of a Parish or part of a Parish.

29. Every territory erected into a parish, and situated entirely in one and the same county, forms of itself a parish municipality, within its whole extent, save and except any parts thereof included in any township, or in any town or village municipality.

30. Whenever a territory not forming part of a township, or of a town or village municipality, is annexed to a parish in the county by civil authority or by the legislature, such territory, without further formality, forms part of the municipality of such parish, from the date of its annexation to the parish, and is subject to articles 43 and 44.

31. If a part only of a parish is situated in a county, this part of a parish forms, of itself, a municipality of

a part of a parish, provided it has a population of at least three hundred souls.

If such part of a parish has not a population of three hundred souls, it must be annexed to an adjoining rural municipality in the county.

32. The county council may, by a resolution after public notice to that effect has been duly given, previous to the passing thereof, and approved and published in the manner prescribed by article 41, erect into a parish municipality, under the name which belongs to it, according to the rules prescribed, any territory included in one or more townships or parts of townships, whether or not erected into municipalities, and which has been constituted into a civil parish, provided that such parish contains a population of three hundred souls and is wholly situate in the county

When a part only of such civil parish is situate in the county, such part of a parish, if it contain a population of three hundred souls, may in the same manner be erected into a municipality of part of a parish.

33. (*As amended by 45 Vic., c. 35, s. 3.*) The county council may, in the same manner, annex to a parish municipality, any territory situated in one or more townships or parts of townships, whether erected or not into municipalities, whether such territory has or has not been already joined to such parish for civil purposes, provided that such territory and parish be entirely situate in one and the same county.

34. The name of a parish municipality is "The municipality of the parish of (*name of the parish*)."

The name of a municipality of part of a parish, is "The municipality of * * * part of the parish of (*naming the parish and substituting in place of * * * * the word north, south, east or west, according as such*

municipality is situated in one of these directions in relation to the principal part of the parish)."

§ II.

Of Municipalities of a Township or of part of a Township.

35. Any territory erected into a township, situated entirely in one and the same county, and having a population of at least three hundred souls, as appears by the last census or otherwise, forms of itself a township municipality.

A township with a population of less than three hundred souls, must be annexed to an adjoining rural municipality in the county.

36. Whenever any territory which does not already form part of a local municipality, is annexed by proclamation to any township in the county, such territory, from the date of its annexation to the township, forms part of the municipality of such township without any other formality.

37. If a part only of a township is situated in a county, such part of a township forms, of itself, a municipality of part of a township, when it has a population of at least three hundred souls.

If such part of a township has not a population of at least three hundred souls, it must be annexed to an adjoining rural municipality in the county.

37a. (*Added by 35 Vic., c. 8 s. 1, and as amended by 41 Vic., c. 18, s. 3; by 41-42 Vic., c. 10, s. 2 and by 42-43 Vic., c. 22 s. 1*). The county council may, by resolution, erect into a municipality of part of a township, any territory containing a population of at least three hundred souls, which already forms part of a municipality of a township, of part of a township or of united

townships, or of several contiguous townships situated in the same county, on petition signed by at least two-thirds of the electors of such territory and by a majority of the electors of the remaining portion of the said municipality; provided that there remains in the municipality, from which such territory is detached, a population of at least three hundred souls.

Such resolution must be preceded by a public notice given for such purpose, and approved and published in the manner prescribed by article 41.

38. *(As amended by 41-42 Vic., c. 10, s. 3).* The name of a township municipality is "The municipality of the township of *(name of the township)*."

The name of a municipality of part of a township is "The municipality of the * * * * part of the township of *(naming the township and substituting in place of * * * * the word north, south, east or west, to suit the case)*."

That of a municipality composed of portions of several townships is "municipality of * * * * *(name which shall be given to it by the county council)*."

§ III.

Of United Township Municipalities.

39. The county council may, by a resolution, sanctioned and published in the manner prescribed by article 41, unite two or more townships situated wholly within the limits of the county, to form conjointly one local municipality, provided that the population of each of these townships does not amount to three hundred souls, and that the total population of these townships united amounts to at least three hundred souls.

40. From the first day of the month of January which follows the approval by the lieutenant-governor

of the resolution declaring such union, the townships so united form a local municipality under the name of "The municipality of the united townships of (name of the townships)."

§ IV.

Annexation of a Territory to a Rural Municipality.

41. The annexation of any territory to a rural municipality, in the cases prescribed by the provisions of the preceding paragraphs, is made by a resolution of the county council.

This resolution must be approved by the lieutenant-governor in council, and published within the fifteen days which follow the receipt of his approval, by the secretary-treasurer, in the manner prescribed for public notices, and, moreover, by two insertions in one or more newspapers and in the Official Gazette of the province.

42. The territory thus annexed to the rural municipality becomes part of such municipality for all municipal purposes, from the first day of the month of January, which follows the publication of the resolution.

43. The members and officers of the council of the municipality to which a territory has been annexed, in office at the time of the annexation, remain in office, and form the municipal council or are the officers of the whole municipality as constituted after the annexation.

44. The by-laws, orders, lists, rolls or municipal acts, which governed the territory before its annexation, continue in force for such territory, subject, nevertheless, to the application of provisions of chapter three of this title, until repealed or amended by the municipal council; and those which governed the

municipality before the annexation do not apply to the annexed territory until they have been declared applicable to it by the same council.

Nevertheless the by-laws hereinbefore first mentioned, can neither be repealed nor amended, nor those hereinbefore last mentioned, declared applicable to such annexed territory, by the municipal councillors in office at the time of such annexation, so long as they do not fill their offices in virtue of a new appointment.

§ V.

Separation of a Territory Annexed or United to another.

45. If it appears by a general census, or special census or enumeration of the inhabitants, that the territory which has been annexed to a rural municipality, or united to another territory for the purpose of forming a united township municipality, contains a population of at least three hundred souls, the county council may, by resolution, divide such territory for the purpose of establishing within its original limits, a distinct local municipality, or municipalities, as the case may be, provided that the territory which remains, retains a population of at least three hundred souls.

This resolution must be approved and published in the same manner as those passed in virtue of article 32 and 41.

46. From the first day of the month of January which follows the approval of the lieutenant-governor, the territory so separated forms of itself a distinct local municipality, under its proper name, according to the rules already established.

47. The county council must cause a special census of the inhabitants of a territory which has been annex-

ed or united in virtue of the provisions of this chapter, to be made by one of its officers or by a person appointed for that purpose, whenever required to do so, by at least two persons resident in such territory, and who offer sufficient security for the payment of the cost in the case mentioned in the following article.

48. If it appears from such census that such annexed or united locality does not contain a population of three hundred souls, the cost of such census must be repaid to the council by the persons who demanded the same, or by their sureties.

48a. (*Added by 41 Vic., c. 18, s. 4.*) Whenever there is, within the limits of a rural municipality, a group of at least sixty houses on a territory not exceeding two hundred and sixty arpents in superficies, the council of such municipality may, on presentation of a petition signed by two thirds of the municipal electors who are at the same time proprietors residents of the said territory pass a by-law to define the extent and the limits of such territory, and to cause it to be known as an unincorporated village under such name as he may deem expedient to give it.

48b. (*Added by 41 Vic., c. 18, s. 4.*) As soon as such by-law shall come into force, the council of the municipality is vested with the same powers and authority to make by-laws, with regard to such unincorporated village, as that of the council of a village municipality working under the provisions of this code, except, however, those conferred by articles 617 to 623 *a* and 637 to 640 inclusively.

SECTION II.

OF TOWN AND VILLAGE MUNICIPALITIES.

§ I.

Of existing Town and Village Municipalities.

49. Every territory erected at the time when this code comes into force, into a village municipality

under the authority of any statute whatsoever, continues to form a village municipality, governed by the provisions of this code.

Such village municipalities are designated and known under their corporate name, according to the provisions of the law under which they were erected.

50. The town and village municipalities, specified in the two preceding articles, are designated and known under the corporate name which belongs to them, according to the provisions of the law under which they were erected.

§ II.

Erection of New Village Municipalities.

51. Every territory forming part of a rural municipality and containing on any one of its parts, at least forty inhabited houses, within a space not exceeding sixty superficial arpents, may be erected into a village municipality by a proclamation of the lieutenant-governor issued after the observance of the formalities prescribed in this paragraph.

52. (*As amended by 39 Vic., c. 29, s. 1 and by 41 Vic., c.18, s. 5.*) The county council, on presentation of a petition, signed by two-thirds of the municipal electors, who are at the same time proprietors, residents of the territory which is sought to be erected into a village municipality, names a special superintendent charged to visit such territory for the purpose of establishing the number of houses thereon built and inhabited, and to report on such petition.

53. The special superintendent, after having made oath faithfully to perform the duties of his office, gives public notice to the inhabitants of the rural municipality concerned, of the day and hour at which

he is to commence his visit and make the examination of the territory described in the petition.

At the time and place fixed he must give a hearing to every interested party who appears, and receive from such party any objection or opposition, whether written or verbal.

54. The special superintendent must set forth in his report to the council :

1. The number of houses built and inhabited on the territory in question ;

2. The number of the houses built and inhabited, within a space not exceeding sixty superficial arpents, on any part whatsoever of the territory ;

3. A clear and precise description of the limits, which, in his opinion, should be given to the territory which is sought to be erected into a village municipality ;

If the limits described in the report differ from those set forth in the petition, the special superintendent must state the reasons of such discrepancy.

55. The report of the special superintendent must be accompanied by a plan of the territory in question, distinctly showing :

1. The limits defined in the report ;

2. Those defined in the petition, if they differ from those defined in the report ;

3. Streets opened ;

4. Streets projected ;

5. Lots built upon ;

6. Lots vacant.

After having made and signed his report, the special superintendent deposits it with the plan accompanying it, together with a copy of each, in the office of the county council.

56. The secretary - treasurer must give public notice of the filing of such report to the inhabitants of the rural municipality from which it is proposed to separate the territory in question, indicating at the same time the place where communication of the report and the plan may be taken by the interested, dating from the publication of such notice.

57. The county council may reject or homologate, with or without amendment, the report of the special superintendent, within two months from the publication of the notice of the filing of such report at the office of the council.

It cannot, however, proceed to the consideration and amendment of the report without first giving public notice to the inhabitants of the rural municipality concerned, of the day and hour at which its proceedings are to commence, and after having heard all interested parties, including the special superintendent, if such hearing is required.

58. The amendments made by the county council to the special superintendent's report, must be entered on the original and the copies lodged in the office of the council, or on sheets of paper thereunto annexed.

59. At the expiration of two months from the publication of the notice of its deposit, the report of the special superintendent is held to be homologated as it then is, unless in this interval it has been rejected or expressly homologated by the county council.

60. After the homologation of the special superintendent's report, under article 57 or article 59, the

secretary-treasurer is bound to transmit to the provincial secretary a copy of the report and any amendments which may have been made, as well as of any other document connected with it, together with either the plan or a copy of the plan of the territory in question.

61. The lieutenant-governor, may, by an order in council, approve or reject the said report with its amendments, or may modify it or amend it anew.

62. If the report is approved, with or without amendment, the lieutenant-governor issues a proclamation erecting the territory described in the report into a village municipality, and declaring its name and defining its limits.

63. (*As amended by 41 Vic., c. 18, s. 6.*) The proclamation comes into force on the day of its publication in the Official Gazette of the province; and two copies certified by the provincial secretary must be sent to the office of the county council.

64. The secretary-treasurer of the county council gives public notice of the issuing of the proclamation erecting such village municipality, and transmits one of the copies of such proclamation to the mayor of the new municipality as soon as he is appointed.

65. From the date of the proclamation coming into force, the territory, as defined in such proclamation, is detached from the local municipality of which it formerly made part, and becomes a distinct village municipality under its corporate name.

The remaining part of the municipality, if it contains a population of at least three hundred souls, continues to form a distinct municipality under its corporate name, the members and officers of the council then in office, remain in office as if the erec-

tion of the village municipality had not taken place, the provisions of article 283, to the contrary notwithstanding.

66. The by-laws, orders, rolls or municipal acts which governed the territory before its erection into a village municipality, continue in force after such erection, subject to the application of the provisions of chapter three of this title, until they are amended or repealed by the village council.

67. The name of a village municipality is "The municipality of the village of (*name of the village*)."

§ III.

Erection of New Town Municipalities.

68. The lieutenant-governor in council may, by proclamation, erect a territory forming a village municipality, into a town municipality, if he deems it in the interest of such municipality and its inhabitants so to do.

69. The proclamation issued in virtue of the preceding article, must be published in the Official Gazette of the province and comes into force on the first day of the month of January after it has issued.

A copy of it must be sent to the office of the county council, and another to the office of the council of the village municipality, which has been erected into a town municipality.

The secretary-treasurer of such municipality must give public notice of the issuing of the proclamation, immediately on receipt of a copy thereof.

70. The by-laws, orders, rolls of municipal acts which governed the territory before its erection into

a town municipality, continue in force after such erection, until they are amended or repealed by the town council.

71. The name of a town municipality is : " The municipality of the town of *(name of the town)*."

§ IV.

Annexation of a Territory to a Town or Village Municipality.

72. Every territory forming part of a rural municipality, adjoining a town or village municipality, situated in the same county as such town or village, and inhabited in the proportion of at least forty families within an area of sixty superficial arpents, may, by a resolution of the county council, be annexed to such town or village municipality.

73. Articles 41, 42, 43 and 44 apply equally to annexations of territory made under the preceding article.

§ V.

Annexation of a Town or Village Municipality to an adjoining Local Municipality.

74. (*As amended by 36 Vict., c. 21, s. 2 and by 41-42 Vic., c. 10, s. 4*). Every town or village municipality may be annexed to another adjoining local municipality in the county, by proclamation of the lieutenant-governor, on a petition signed by at least two-thirds of the electors of such town or village municipality, as well as by two-thirds of the electors of the municipality to which such first-named municipality is sought to be annexed.

Any part of a town or village municipality may, in the same manner, be annexed to any local adjoining municipality in the county, provided there remains in

the town or village municipality a territory of sixty arpents in superficial extent, containing forty inhabited houses.

Nevertheless, when a village municipality is situated partly in one and partly in the other of two adjoining parishes, either of the two such parts of the village municipality may be annexed to the municipality of the parish of which such portion of the village municipality forms part, provided that the petition, praying for such annexation, be signed by all the proprietors residing in the portion which demands such separation, and provided also that there remains in the municipality of the village a territory of sixty arpents in superficies, containing forty inhabited houses.

75. Such proclamation comes into force on the first day of January following the date of its issue.

76. (*As substituted by 36 Vict., c. 21, s. 3.*) The territory of the town or village so annexed to any local adjoining municipality, forms part of such municipality, from the date of the coming into force of the proclamation; and if the whole of the municipality has been so annexed, it ceases from such time to form a distinct municipality.

77. The provisions of articles 43 and 44 apply also to every annexation made in virtue of article 74.

CHAPTER THIRD.

EFFECT OF THE CHANGE OF THE LIMITS OF A MUNICIPALITY UPON THE OBLIGATIONS AND RIGHTS OF RATE-PAYERS.

SECTION I.

Settlement and Division of Joint Debts.

78. The taxable property comprised in a territory newly erected into a municipality, or annexed to

another municipality, or simply separated from a municipality without forming part of any other, whether by special act or under the authority of the provisions of this code, continue bound and obliged for all debts and obligations contracted before the change of limits, the separation, or the erection into a new municipality of such territory.

79. The council of the municipality from which a territory has been separated, is alone authorized and bound to settle their joint debts and obligations with the creditors.

But if any whole municipality which no longer forms of itself a distinct municipality, is divided and must be annexed to one or more municipalities, or must form two or more new municipalities, or must be in part annexed to one or more municipalities and in part form one or more new municipalities, the only municipal council authorized and obliged to settle the joint debts and obligations with the creditors, is that which governs the territory which contains within its limits the place where the council sat at the time of such separation or division.

If in the case of the preceding provision, the place where the council sat at the time of the division or separation, was in a village or town municipality, distinct from the divided or separated territory, the only municipal council authorized and obliged to settle the joint debts and obligations with the creditors, is that which governs the territory including within its limits the greater part of the divided or separated municipality.

80. All suits brought in reference to the settlement and payment of such debts and obligations, may be brought in the district or in the county in which is situated the chief place of the council bound to settle such debts and obligations

81. The settlement and division of joint debts and obligations, must be based on the value of the taxable property liable for such debts and obligations, according to the valuation roll in force at the time when such limits were changed.

82. The council bound for the settlement of joint debts and obligations, and its officers, are authorized to collect throughout the whole territory liable for such debts and obligations, the taxes imposed for the payment of the same, by the by-laws in force at the time of the change of limits, or to impose thereon by by-laws, new taxes, to effect the full payment of such debts and obligations, with all the rights and powers conferred upon the council and its officers, that governed the same before the division and separation of the territory.

83. Nevertheless, if any land liable for such taxes is not situated in the county municipality in which such council and officers have jurisdiction, such land cannot be sold in default of payment of such taxes, except within the county municipality in which it is situated; and the secretary-treasurer, entrusted with the collection of such moneys, must transmit a statement thereof, within the time required, to the secretary-treasurer of such county municipality, who must, in default of payment of the taxes for which such land is liable, proceed to the sale of the same in the usual manner.

84. The council bound to settle the joint debts and obligations may, by mutual agreement with the council entrusted with the municipal administration of any other part of the territory liable for the payment of such debts and obligations, determine the total amount jointly due by all the owners or occupants of the taxable property comprised within such part of the territory.

This agreement is made in conformity with resolu-

tions previously passed for that purpose by the councils interested therein, and can only include debts and obligations liquidated and demandable.

85. The share established by the deed of agreement becomes a debt demandable, by the council bound to settle the joint debts and obligations, according to the terms of the agreement, of the municipal corporation whereof the council became a party to such deed, and may be recovered by the latter and its officers from the rate-payers liable for such debts and obligations, as well under the by-laws in force at the time of the deed of agreement as under new by-laws which such council may make for such purpose.

SECTION II.

Division of Common Property.

86. Property consisting in sums of money, assets, effects, movables or immovables, belonging to the corporation at the time of a change of limits, or of the separation of any territory, with the exception of those mentioned in the following article, must be divided in the same manner as joint debts.

87. The books, registers, plans, rolls, lists, documents, papers or records of the corporation remain the exclusive property of the council, which is bound to settle the joint liabilities.

88. The council bound to settle the joint liabilities is alone authorized to collect and settle all arrears of municipal taxes and all other assets due before the change of limits, by itself or by its officers, with the same rights and powers as those conferred upon the council and officers authorized to collect and settle them before such change of limits.

89. Such council may nevertheless convey by deed of agreement to the council entrusted with the municipal administration of any other part of the territory which was included in the old municipality, for the benefit of the rate-payers of such part of the territory, all arrears of municipal taxes and all other assets arising out of the taxable property included in such part of the territory; and the council to which such conveyance was made and its officers are authorized to collect and settle such arrears and assets, with all the rights and powers possessed by the council making such conveyance and its officers.

SECTION III.

Miscellaneous Provisions.

90. No rate-payer of a territory detached or separated from a local municipality before or after the coming into force of this code is obliged, in virtue of any *procès-verbal*, act of apportionment, by-law or order, in force at the time of the change of limits, to perform work upon municipal roads or bridges up to that time deemed to be local, and situated in the remaining part of the local municipality from which such territory has been detached or separated.

The same rule applies to the rate-payers of any local municipality from which any territory has been detached or separated, before or after the coming into force of this code, respecting works of a similar nature situated within the limits of such territory.

91. No territory annexed to a municipality, is liable for the payment of debts and obligations contracted by the corporation of such municipality before the annexation.

92. The council of every newly organized municipality, and of every municipality which comprises or

governs a territory detached or separated from another municipality is entitled to obtain certified copies of all by-laws, resolutions, orders, *procès-verbaux*, rolls, papers, books, plans or documents which have reference to such new municipality or to such territory, from the council in whose possession they are, on payment of ten cents for each hundred words.

The council requiring such copies may have them made by one of its officers, on payment of fifty cents for each certificate made or thereunto affixed by the secretary-treasurer or other officer in charge of such documents.

TITLE SECOND.

PROVISIONS COMMON TO ALL MUNICIPAL CORPORATIONS.

CHAPTER FIRST.

OF THE MUNICIPAL COUNCIL.

SECTION I.

General Provisions.

93. Every municipal corporation is represented by its council: its powers are exercised and its duties discharged by such council and its officers.

94. Such council is recognized and styled by the name of "The municipal council of or of the (*insert the name of the municipality without the words municipality of or of the*).

95. The council has jurisdiction throughout the entire extent of the municipality, the corporation of which it represents, and beyond the limits of the municipality in special cases where more ample authority is conferred upon it.

Its orders, within the scope of its powers, are obligatory upon all persons subject to its jurisdiction.

96. The municipal council may appoint committees, composed of as many of its members as it judges convenient, and may delegate to them its powers respecting the examination of any question, the management of any business or particular kind of business, or for the execution of certain duties.

The committees must render account of their labors and their decisions by reports signed by their chairman or by a majority of the members who compose them; and no report or order whatever of a committee has any effect until it has been adopted by the council at a regular session, save in the case of article 98.

97. Everyone who is entitled to be heard before the council or its committees, may be so heard in person or by any other person acting on his behalf, whether authorized by power of attorney or not. He may also produce and examine witnesses.

98. (*As amended by 41-42 Vic., c. 10, s. 5.*) The council or committees, on every question or matter pending before them, may:

1. Take communication of all documents or writings produced in evidence;
2. Summon any person residing in the municipality;
3. Examine under oath the parties and the witnesses produced by the parties, and administer or cause to

be administered to them an oath or affirmation by one of their members or by the secretary-treasurer.

The council may declare who shall bear and pay the costs incurred for the production of the witnesses heard, or for the summoning of witnesses who have made default, and tax such costs, including the reasonable travelling expenses and fifty cents a day for the witnesses. The amount thus taxed, may be received either by the corporation or by the person who has advanced and paid out the same, as the case may be, in the manner prescribed for the recovery of penalties imposed by this code.

99. If any one so summoned before the council or the committees fails without just cause to appear at the time and place mentioned in the summons, when compensation has been paid or offered to him for his reasonable travelling expenses for going and returning, and fifty cents a day for his time, he incurs a penalty of not less than four, or more than ten dollars, or imprisonment not to exceed fifteen days.

100. Any *procès-verbal*, roll, resolution or other order of a municipal council, may be set aside by the magistrate's court or by the circuit court of the county or district, by reason of its illegality, in the same effect as a municipal by-law, and is subject to the provisions of articles 461 and 705. (1)

101. Any council which has neglected to appoint its head, or its officers, or to fill any vacancy it was bound to fill, within the delays prescribed, may still make such appointment or fill such vacancy after such delay, unless the lieutenant-governor has already done so under the provisions of this code.

(1) HELD:—That an appeal lies from a judgment of the Circuit Court under act. 100 of the Municipal Code.—RALPH & CORPORATION OF THE TOWNSHIP OF STOKE—XXIV L. C. J., 103.

102. Any document, order of proceeding of a municipal council, the publication of which is required by the provisions of this code or by the council itself, must be published in the manner and at the places prescribed for public notices, except in cases otherwise provided for.

103. Any person producing or lodging any document relating to municipal matters in the office of the council, or before the council in session, is entitled to a receipt or acknowledgment certifying the production or deposit of such document, from the secretary-treasurer, or in his absence, from the person presiding at the council, if the council is in session.

Any secretary-treasurer or person presiding who neglects or refuses to receive any such document or to deposit the same in the archives of the council, or to give the required receipt, incurs a penalty of twenty dollars in each case, in addition to the damages caused by such refusal or neglect.

104. Documents produced as exhibits, and filed in the office of the council or with its officers, must be returned on receipt, to the persons who produced the same, whenever they require them.

105. The office of the council is that which is occupied by the secretary-treasurer in his official capacity, and must be held within the limits of the municipality, except in the case of the following article.

106. The office of the council of a rural municipality, or of its officers, and the place where it holds its sessions, may be established in the municipality of a village, of a town or of a city, incorporated in virtue of this code or any other act, provided always, that such municipality of a village, town or city is contiguous thereto.

107. Every service, production or deposit, which should be made at the office of the council, may be made with equal validity, to a reasonable person at the domicile of the secretary-treasurer, or to the secretary-treasurer personally.

In such case, however, the receipt cannot be demanded unless the production or deposit has been made with the secretary-treasurer personally. (1)

SECTION II.

Of the Members of the Council.

108. Every member of the council, so soon as he is appointed, must make oath well and faithfully to discharge the duties of his office.

109. The oath which the head of the council shall have taken as councillor, does not exempt him from taking the oath of office as mayor or warden.

110. The oath of office of the councillors and of the head of the council may be taken before a justice of the peace, or before the head of the council then in office, and an entry thereof must be made in the book of the proceedings of the council.

111. A member of the council does not enter upon the discharge of his duties, until he has taken the oath of office.

112. The omission during fifteen days on the part of any member of a council to take the oath required for the office to which he has been appointed, constitutes a refusal to accept such office, and renders him subject to the penalties prescribed in such case.

(1) **HELD :** That municipal councillors who, after their term of office, are sued (*en garantie*) in warranty or for indemnity by reason of some deed of theirs made whilst discharging their duties have right to the notice required by art. 22, C. C. P.—**MORISSETTE & AL. V. CORPORATION DU VILLAGE DE BIENVILLE, V., Q. L. R., 362.**

113. The councillors do not receive any salary, profit or indemnity, in any shape whatsoever for their services.

114. The members of the council are unable to hold any subordinate offices under any municipal council of which they are members, or under the county council, if they are members of one of the local councils of the county municipality.

115. No member of a council can be surety for the performance of the duties attached to an office under the council of which he forms part.

116. Every member of a council appointed in the place of another, whether it be as head of the council or as councillor, holds office for the remainder only of the period for which his predecessor had been appointed.

117. Any person appointed a local or county councillor, who illegally refuses to accept such office or to continue to perform the duties thereof, incurs a penalty of twenty dollars.

118. A member of council is deemed to have refused to continue to perform the duties of his office when he, for two months, refuses or neglects without, in the opinion of the council, reasonable cause, to discharge the duties of such office.

119. Any member who refuses to accept the office or to continue to perform the duties of the office to which he has been appointed in the council, or who is unable to perform such duties for three consecutive months, through absence, illness, infirmity, or otherwise, may at any time, until the vacancy caused by his refusal or incapacity to act be filled up, resume his duties and perform the same, if he is able to do so, without prejudice in any case to the costs of procee-

dings instituted against him, in the event of any such proceedings having been instituted.

120. No vote given by a person filling, illegally, the office of member of the council, and no act in which he participates in such quality, can be set aside solely by reason of the illegal exercise of such office.

SECTION III.

Provisions specially applicable to the Head of the Council.

121. The head of the council exercises the right of superintendence over all the officers of the municipality, sees to the faithful and impartial execution of all municipal ordinances and by-laws, and communicates to the council any information or suggestion which he considers conducive to the interests of the municipality or its inhabitants.

122. He signs, seals, and executes, in the name of the council, all debentures, contracts, agreements or deeds made and passed by the corporation, unless the council provide otherwise.

123. It is his duty to read to the council, in session, all circulars or communications addressed to himself or the council by the lieutenant-governor or by the provincial secretary, and, if it be required by the council or by the lieutenant-governor, to make them public in the municipality, in the manner required for public notices.

124. He is also bound to furnish to the lieutenant-governor, on demand, all information concerning the execution of the municipal law, and all other information which it may be in his power to give with the concurrence of the council.

125. The head of every council is, *ex officio*, without other qualification and without being obliged to take the oaths prescribed for such office, a justice of the peace within the limits of the municipality wherein he exercises his office, so long as he continues in office.

He is incompetent to hear and decide all cases in which the corporation or its officers are interested parties.

SECTION IV.

Of the Sessions of the Council.

126. Special sessions of any municipal council may be convened at any time by the head or by the secretary-treasurer or by two members of such council, by giving special notice of such session to all the members of the council, other than those summoning the same.

127. At a special session the subjects or matters mentioned in the notice calling the council together, can alone be taken into consideration.

The council, before proceeding to business at such session, must set forth and declare in the minutes of the sitting contained in the book of its deliberations, that the notice of meeting has been issued in conformity with the requirement of this code to all the members of the council who are not present at the opening of the sitting.

If it appear that the notice of meeting has not been served on all the absent members, the session must be immediately closed, under penalty of all its proceedings being null.

128. Every session commences at the hour of ten in the forenoon, unless otherwise determined by the notice of the meeting, by an adjournment, or a by-law or resolution of the council.

129. If the day fixed for an ordinary session by the provisions of this code or by municipal by-laws, falls upon a holiday, such session is held on the next following juridical day.

130. The sessions are held with open doors. Until otherwise ordained, in virtue of article 467, each session consists of one sitting, unless adjourned.

131. The sessions of the council are presided over by its head, or in the event of there being no head, or in his default to act, or in his absence, by one of its members chosen from the councillors present. In the case of an equal division of votes in the choice of a presiding officer, the member present chosen by lot presides at the council board.

132. (*As amended by 41-42 Vic., c. 10, s. 6.*) The presiding officer of the council maintains order and decorum and decides questions of order, saving an appeal to the council.

He has and may exercise, subject to an appeal to the council, all powers conferred by article 301, on the presiding officer at an election.

133. Every disputed question is decided by a majority of the votes of the members present, excepting in case where, in conformity with the provisions of this code, the votes of two-thirds of the members of the council or of the members present, are required.

134. (*As amended by 45 Vic., c. 35, s. 4.*) The chief of the council and the president, if they be also members of the council, may vote each time a question is put to the vote; and in case of an equal division of votes, he has in addition the casting vote.

If the presiding officer be not also a councillor he can only vote in the case of an equal division of votes.

In case of an equal division of votes the presiding officer is always bound to give the casting vote.

135. No member of a council can take part in the discussion of any question in which he has a personal interest. The council in case of dispute decides whether the member has or has not a personal interest in the question ; and such member has no right to vote on the question of his interest.

This article does not apply to the appointment of the head of the council nor to the naming of committees.

136. If the majority of the members of a local council have a personal interest in any question submitted to their decision, such question must be referred to the county council, which in respect of the consideration and decision of such question, possesses all the rights, privileges and obligations of the local council.

137. Members of the council are not permitted to vote by ballot ; the votes are recorded in the minutes of the proceedings of the council, when required.

138. Any ordinary or special session can be adjourned by the council to any other hour of the same day or to a subsequent day, without it being necessary to give notice of such adjournment to the members who were not present, excepting in the case of the following article.

139. Two members of the council when there is not a quorum present, may adjourn the session at the expiration of one hour from the time it was established that there was no quorum. The hour of the adjournment and the names of the members of the council

present, must be inscribed in the minutes of the sitting in the book of the proceedings of the council.

In this case a special notice of the adjournment is given by the secretary-treasurer to the members of the council who were not present at the time of adjournment. The service of this notice must be established, at the resumption of the adjourned session, in the same manner as that of the notice convening a special session, and the absence of service of such notice renders every proceeding adopted at such part of an adjourned session, void.

140. No council is dissolved by the fact of any session thereof not having taken place.

141. The place where the sittings of the council are held, must be as much as possible in the most public place of the municipality.

CHAPTER SECOND.

OF THE OFFICERS OF THE MUNICIPAL COUNCIL.

SECTION I

Of the Secretary-Treasurer.

142. Every municipal council must have an officer entrusted with the care of the office and the archives of the council, and designated by the name of "secretary-treasurer."

In every newly-formed municipality the secretary-treasurer must be appointed by the council within thirty days after the entry into office of the majority of the new councillors.

143. The secretary-treasurer remains in office during the pleasure of the council.

144. (*As amended by 41-42 Vic., c. 10 s. 7.*) Every secretary-treasurer, before acting as such, must make oath to discharge well and faithfully the duties of his office, and must within thirty days next following, give security in the manner prescribed by this code.

Nevertheless the want of security shall in no wise prevent the secretary-treasurer from performing the duties of his office; but the members of the council under whom he acts, who have not exacted or demanded such security, shall be jointly and severally responsible in the same manner as are the sureties in virtue of article 147.

145. The secretary-treasurer may from time to time, appoint under his hand, an "assistant-secretary-treasurer," who may perform all the duties of the office of secretary-treasurer, with the same rights, powers and privileges, and under the same obligations and penalties as the secretary-treasurer himself, except as regards giving security.

In the case of a vacancy in the office of secretary-treasurer, the assistant secretary-treasurer must continue to perform the duties of the office until the vacancy is filled.

The assistant secretary-treasurer enters into office after making oath to discharge well and faithfully the duties of such office: he may be removed or superseded at will by the secretary-treasurer.

In the performance of his functions he acts under the responsibility of the secretary-treasurer who appointed him and of the sureties of such secretary-treasurer (1).

(1) **Held:**—That the assistant secretary-treasurer has the same right to preside over the meeting of electors, for the election of councillors, as the secretary-treasurer himself.—**MARRIEN & RASCONI**, VII *Rev. Lég.*, 140.

§ I.

Of the security furnished by the Secretary-Treasurer.

146. The secretary-treasurer furnishes either one or two sureties, whose names are first approved by resolution of the council.

147. The sureties bind themselves jointly and severally with the secretary-treasurer, towards the corporation, for the due performance of the duties of his office and for the payment of all moneys, for which the latter in the exercise of his office may be accountable, whether principal, interest, costs, penalties or damages.

148. One of the obligees must hypothecate, in and by the security-bond, property belonging to him personally for the payment of a sum determined by resolution of the council and exigible under the provisions of the preceding article.

This hypothec may be given in the same instrument by more than one of the obligees, or upon more than one property.

The properties offered must be previously accepted by resolution of the council; nor can they be accepted until it is proved to the satisfaction of the council, that they are worth, at least, beyond all charges and hypothecs upon them, twice the amount of the hypothec required.

149. The security-bond must be accepted by the head of the council in the name of the corporation, and be executed before a notary, or in duplicate, *sous seing privé*, before two witnesses who sign the same.

Such security-bond, any law to the contrary notwithstanding, constitutes a hypothec on the immovables therein described, so soon as it shall have been

registered in the office of the registration division in which such immovables are situated.

It is the duty of the secretary-treasurer, without delay, to register his security-bond, and after he has registered the same, to transmit a copy thereof or a duplicate thereof to the head of the council, together with a certificate of its enregistration.

150. The sureties of the secretary-treasurer may, at any time, by giving notice in writing of their intention to the secretary-treasurer himself and to the head of the council, free themselves from future liability under their bond, at the expiration of thirty days after the service of such notice.

This notice is given and served by a notary, or by the surety himself in a writing delivered in presence of one witness who signs the same.

151. The secretary-treasurer must, within thirty days after the service of such notice, furnish other sureties in lieu of those who have withdrawn; in default of his so doing, he cannot discharge any of the functions of his office, under a penalty of twenty dollars for each infraction of this provision.

152. Whenever one of his sureties dies, becomes insolvent, or removes his domicile outside the limits of the district, the secretary-treasurer must, so soon as he becomes aware of such fact, inform the head of the council, in writing thereof, under a penalty of one hundred dollars; and he must supply the place of such surety within the thirty days next following. In default of his so doing he cannot perform any of the duties of his office, under the penalties prescribed by the preceding article.

153. The sureties of the secretary-treasurer, after they are freed from future liability under their bond, or after the secretary-treasurer has ceased to discharge

the duties of such office, may exact from the head of the council a certificate of discharge for the future, which certificate, after registration thereof, discharges thenceforth the immovables hypothecated by such security-bond.

154. The head of the council is authorized to give and sign a consent to the discharge of the hypothec given by the sureties of the secretary-treasurer, in cases where such consent may be asked and granted.

155. No person, who has been surety for any secretary-treasurer, can be a member of the council whereof such secretary-treasurer was the officer, until he is discharged from all obligations towards the corporation arising out of his security-bond.

155a. (*Added by 41-42 Vic., c. 10, s. 8*). The secretary-treasurer may, with the consent of the council, in lieu of hypothecary security, furnish security by means of a bond or policy of guarantee in favor of the corporation, in any Canadian Guarantee Assurance Company, which may be approved of by the council.

§ II.

General Duties of the Secretary-Treasurer.

156. The secretary-treasurer is the keeper of all the books, registers, plans, maps, archives, and other documents and papers, which are either the property of the corporation, or are produced, filed and preserved in the office of the council. He cannot divest himself of the custody of these archives, except with the permission of the council, or under the authority of a competent court.

157. He attends at all sessions of the council and draws up minutes of all the acts and proceedings

thereof, in a register kept for that purpose, and called "The Register of Proceedings."

All minutes of the sitting of the council, must be approved by the council, signed by the person who presided over the council during such sitting, and countersigned by the secretary-treasurer.

Whenever a by-law or a resolution is amended or repealed, mention must be made thereof in the margin of the register of proceedings, and opposite such by-law or resolution, together with the date of its amendment or repeal.

158. Copies and extracts certified by the secretary-treasurer from all books, registers, archives, documents and papers preserved in the office of the council, are evidence of their contents.

159. The secretary-treasurer collects and has charge of all moneys due or payable to the corporation.

160. He pays out of the funds of the corporation all sums of money due by it, whenever he is authorized to do so by the council. If the sum to be paid does not exceed ten dollars, the authorization of the head of the council is sufficient.

Even in the absence of authorization from the council or from the head of the council, it is his duty to pay, out of the funds of the corporation, any draft or order drawn upon him, or any sum demanded, by any one empowered so to do by the provisions of this code, or by the municipal by-laws.

No draft or order can, however, be legally paid unless the same shows sufficiently the nature of the use to be made of the sum therein mentioned :

161. No secretary-treasurer can, under a penalty of twenty dollars for each infraction :

1. Grant discharges to rate-payers or other persons indebted to the corporation for municipal taxes or other debts, without having actually received in cash or in lawful value the amount mentioned in such discharges;

2. Lend, directly or indirectly, by himself or by others, to rate-payers or other persons whatsoever, moneys received in payment of municipal taxes or belonging to the corporation.

162. (*As amended by 45 Vic., c. 36, s. 1.*) The secretary-treasurer is bound to keep, in the form prescribed by the provincial secretary, books of account, in which he enters, according to date, each item of receipt and expenditure, mentioning therein the names of all persons who shall have paid money into his hands, or to whom he has made any payment.

He must preserve and file amongst the archives of the council all vouchers for his expenditure.

163. The secretary-treasurer is bound to keep a "repertory," in which he mentions in a summary manner and in the order of their dates, all reports, *procès verbaux*, acts of apportionment, valuation rolls, collection rolls, judgments, maps, plans, statements, notices, letters, papers and documents whatsoever, which are in his possession during the exercise of his office.

164. (*As amended by 41-42 Vic., c. 10, s. 9.*) The secretary-treasurer's books of account and vouchers for his expenditure, together with all the registers or documents in his possession as archives of the council, are open for inspection and examination on office days, between the hours of nine in the morning and four in the afternoon, to members of the council, to municipal officers, to every interested party, and to all rate-payers of the municipality, or their attorneys.

Such persons, either themselves or by their attor-

neys, may take either with a pencil or with a pen, all notes, extracts or copies which they may require.

165. The secretary treasurer is bound to deliver, upon payment of his fees, to any person applying for the same, copies or extracts from any book, roll, register, document or other paper, which forms part of the archives. It is also his duty to send without delay by mail to the principal place of business of any corporation, or iron or wooden railway company, which shall have filed in the office of the council a general application to that effect, and shall have made such principal place of business known, a certified copy of every public notice, by-law, resolution or *procès verbal* filed for homologation or homologated which affects such corporation or company, as well as a certified extract, from the valuation roll, including the valuation of the taxable property of such corporation or company, together with a bill of his fees, which the company is bound to pay immediately on receipt of such document.

His fees, until established under article 471, and unless otherwise fixed by the provisions of this code, are ten cents per hundred words, and fifty cents for the certificate.

The secretary-treasurer nevertheless is bound to furnish gratuitously any copy or extract required by the lieutenant-governor, or by the council or its officers.

166. (*As substituted by 41-42 Vic., c. 10, s. 10*). The secretary-treasurer is bound to render, during the month of January in each year, a detailed account of his receipts and expenditure up to the thirty-first day of the month of December preceding, and he is also bound to render such account oftener if required by the council.

167. If he refuse or neglect to comply with the provisions of the preceding article, he may be sued

by the corporation to render such account, before any competent court, and may be in such action condemned to render account and to pay damages for such refusal or neglect.

He must be condemned to pay the sum which he has admitted to be due, or which he has been declared to owe, together with all such other sums as he ought to have debited himself with or which the court holds him accountable for, with interest in every case, at the rate of twelve per cent., by way of penalty and the costs of suit.

Every such judgment carries with it coercive imprisonment, if the same has been demanded in such action of account.

168. (*As substituted by 36 Vic., c. 21, s. 4 and as amended by 41 Vic., c. 18, s. 7, by 41-42 Vic., c. 10, s. 11 and by 45 Vic., c. 36, s. 2.*) The secretary-treasurer of every local municipal council is bound, yearly, between the first and thirty-first days of January, following the year during which the valuation roll is made, to transmit to the provincial secretary a return showing :

1. The name of the corporation ;
2. The estimated value of the taxable real estate ;
3. The estimated value of the real estate not subject to taxation ;
4. The estimated value of the property declared liable to taxation, by article 710 :
5. The number of persons paying taxes :
6. The number of arpents of valued land ;
7. The rate of assessment in the dollar imposed for all purposes whatsoever ;
8. The value of the property of the corporation ;
9. The debentures of the corporation ;

10. The amount of taxes collected within the year, including the amount for the county council ;

11. All other sums collected ;

12. The amount of arrears of taxes ;

13. The capital amount due to the consolidated municipal loan fund ;

14. The amount of interest due upon such loans ;

15. Other debts ;

16. The amount raised by loan within the year ;

17. The amount received from the government under the seigniorial act ;

18. The interest paid on debentures ;

19. The expenditure on salaries, and other expenditure for municipal government ;

20. All other expenditure ;

21. The number of persons resident in the municipality ;

22. *Repealed by 41 Vic., c. 18, s. 7 and then replaced by 45 Vic., c. 36, s. 2.)* And every other statement which the lieutenant-governor in council may require.

23. (do)

24. (do)

25. (do)

168a. *(Added by 36 Vic., c. 21, s. 4 and as amended by 45 Vic., c. 36, s. 3.)* The secretary-treasurer of every county council is also bound, in the month of January in each year, to transmit to the provincial secretary a return showing :

1. The name of the corporation ;

2. The value of the property belonging to the corporation ;

3. The corporation debentures ;

4. The capital amount due to the consolidated municipal loan fund ;

5. The amount of interest due on such loans ;
6. Other debts ;
7. The amount received from the government under the seigniorial act ;
8. Other revenues ;
9. The interest paid on debentures ;
10. The expenditure on salaries, and other expenditure for municipal government ;
11. All other expenditure ;
12. And every other statement which the lieutenant-governor in council may require.

168b. (*Added by 36 Vic., c. 21, s. 4 and as amended by 45 Vic., c. 36, s. 4.*) The commissioner of agriculture and public works shall annex to his annual report, made under chapter fifteen of 32nd Victoria, as an appendix, a compiled statement of the reports made in virtue of the two preceding articles by counties, with a summary of such reports, by counties only, and forward such statement to the provincial secretary.

169. (*As replaced by 45 Vic., c. 36, s. 5.*) Every secretary-treasurer or clerk of a council of a local municipality or of a village, town or city council, who neglects or refuses to comply with the provisions of article 168 and furnish all the information set forth in the forms prescribed by the lieutenant-governor, in council, or by the provincial secretary, if such forms have been addressed to him by the provincial registrar in the course of the month of December preceding, is liable to a fine of not less than fifty and not more than two hundred dollars, in addition to the costs.

170. All actions, claims or demands against the secretary-treasurer, resulting from his administration, are prescribed in five years from the day in which such actions, claims or demands originated.

171. (*As amended by 41 Vic., c. 18, s. 8.*) The office of the secretary-treasurer is established in the place where the sessions of the council are held, or in any

other place fixed, from time to time, by resolution of the council ; provided the same be not in an hotel, inn, or place of public entertainment in which are sold spirituous, vinous, or fermented liquors.

172. The secretary treasurer and the assistant-secretary-treasurer are also officers of all courts established in the province, and may be dealt with as such by them, whenever such courts deem it necessary.

SECTION II.

Of the Auditors.

173. Every municipal council is bound to name one or two auditors in the month of March of each year.

174. The auditors enter on their functions as soon as they are sworn to discharge well and faithfully the duties of their office.

They remain in office until the entry into office of their successors.

175. No one can be appointed an auditor who is unable to read and write.

176. (*As amended by 41-42 Vic., c. 10, s. 13.*) The auditors are bound, in the month of February in each year, and whenever the council requires, to make an examination of and to report respecting all accounts of the corporation, and all accounts relating to any subject falling within the jurisdiction of the council.

SECTION III.

Of appointments by the Lieutenant-Governor.

177. (*As amended by 41 Vic., c. 18, s. 9.*) Whenever a municipal council has allowed the prescribed delay

to expire without making the appointment of any officer, which it is bound to make in accordance with the provisions of this code or of its by-laws, the lieutenant-governor in council may make such appointment, with the same effect as if it had been made by the council.

This article does not apply to the secretary-treasurer.

178. In the event of such omissions on the part of the council, the secretary-treasurer, or in his default the head of the council, is bound, without delay, to notify the lieutenant-governor thereof, by letter addressed to the provincial secretary.

Any rate-payer of the municipality may give this information to the lieutenant-governor.

179. All appointments made by the lieutenant-governor must be notified to the head or to the secretary-treasurer of the council, by letter from the provincial secretary; and the secretary-treasurer is bound at once to inform the person appointed thereof, by special notice.

180. (*As amended by 41 Vic., c. 18, s. 9.*) The lieutenant-governor in council can only appoint to municipal offices, persons eligible for the offices which they are called upon to fill.

181. The lieutenant-governor may revoke any appointment of a municipal officer made by him, and, if he deems it necessary, replace such officer by another

SECTION IV.

Miscellaneous Provisions.

182. The council, in addition to those whom it is bound to appoint, may appoint all such other officers

as are necessary to carry into effect its orders and the provisions of this code.

183. Municipal officers, in office at the time of the coming into force of this code, are maintained in their offices, until they are replaced under the provisions of this code.

184. If the place of any municipal officer becomes vacant, such vacancies must be filled by the council within the thirty days next following.

185. Every appointment or removal of a municipal officer, made by the council, is made by resolution of the council ; such resolution must be communicated without delay, by the secretary-treasurer to the person who is referred to therein.

186. Every municipal officer who is bound to take the oath of office, before entering upon his duties, must do so within the fifteen days which follow the notice of his appointment. In default of his so doing, he is deemed to have refused to discharge the duties of the office to which he is appointed, and is liable to the penalties prescribed for such refusal.

He may, nevertheless, until the vacancy caused by his refusal be filled up, enter upon his functions and exercise the same, if he is capable of doing so, without prejudice to costs of proceedings instituted against him.

187. Any certificate attesting that an oath of office has been taken by any municipal officer, must be filed without delay, in the office of the council by the person who has taken such oath.

188. No act, duty, writing or proceeding, executed in his official capacity, by a municipal officer, who holds office illegally, can be set aside solely from his so holding such office illegally.

189. Every municipal officer may be removed by the council that appointed him. Any municipal officer, appointed by the lieutenant-governor, may be, in like manner, removed by the council under which he is acting, provided always that such removal be approved by the lieutenant-governor.

190. Every officer appointed to replace another, holds office only for the remainder of the time for which his predecessor was appointed.

191. (*As amended by 45 Vic., c. 35, s. 5.*) Every municipal officer who has ceased to discharge the duties of his office, is bound to deliver within eight days next following, at the office of the council, all the moneys, keys, books, papers, insignia, documents and archives, belonging to such office.

192. (*As amended by 45 Vic., c. 35, s. 6.*) If any municipal officer dies, or absents himself from the province, his representatives are bound, within one month from his death or departure, to deliver at the office of the council, the moneys, keys, books, papers, insignia, documents and archives, belonging to the office so held by him.

193. The corporation is entitled in addition to any other legal recourse whatsoever, to recover by process of revendication, from such officer or his representatives, all such moneys, keys, books, insignia, or archives, with costs and damages.

Every judgment rendered in any such action may be enforced by coercive imprisonment against the person condemned, whenever such imprisonment is demanded by the action.

194. The corporation may exercise the same rights and obtain the same remedy against all other persons having in their possession, and refusing to deliver up such moneys, keys, books, insignia, and archives.

195. Every person who refuses or neglects to obey any lawful order of any municipal officer, given in virtue of the provision of this code or of municipal by-laws, incurs for each offence a penalty of not less than one or more than five dollars, saving cases otherwise provided for.

Every person who hinders or prevents or attempts to hinder or prevent, a municipality officer in the exercise of his functions, incurs for each offence a penalty of not less than two, nor more than ten dollars, and is further responsible for all damages caused by him towards those who have sustained them.

196. Every municipal officer in whose hands is deposited or filed any document whatsoever, is bound, on demand, to give a receipt therefor, under the penalty prescribed in article 103.

Should the document deposited or filed form part of the archives of the council, it is the duty of the municipal officer, with all possible speed to file it among them, under the same penalty.

197. Whenever an act must be executed by more than two municipal officers, it may be validly executed by the majority of such officers save in special cases otherwise provided for.

198. The council cannot, in any manner, discharge or exempt its officers from the performance of the duties imposed by this code, except in particular cases where such power is conferred upon it.

199. The corporation is responsible for the acts of the officers of the council, in the executions of the functions in which they are employed, and also for all damages resulting from their refusal to discharge or negligence in discharging their duties, saving its recourse against such officers.

200. Municipal officers are liable for their acts or in damages arising from their refusal or neglect to discharge their duties, to the corporation only; save in so far as penalties incurred by them are concerned, which penalties may be recovered according to the rules of the second title of the third book.

CHAPTER THIRD.

OF PERSONS BOUND TO ACCEPT MUNICIPAL OFFICES, AND
OF THOSE INCAPABLE OF OR EXEMPT FROM
DISCHARGING THEM.

SECTION I.

Of persons bound to accept Municipal Offices.

201. Whosoever is capable of discharging any municipal office in the municipality, and is not exempted from so doing, is bound to discharge such office if he is thereunto appointed, and to perform all the duties thereof, under the penalties prescribed by law.

No one, however, is bound to accept or to continue in the discharge of the office of secretary-treasurer.

202. Every male resident of full age in a municipality, not declared disqualified by a provision of this code is capable of discharging a municipal office.

SECTION II.

Of persons disqualified for Municipal Offices.

203. The following cannot be appointed to or fill municipal offices:

1. Minors;

2. Persons in holy orders, and the minister of any religious denomination ;
3. Members of the privy council ;
4. The judges of the court of Queen's bench, of the superior court, and of the court of vice-admiralty, district or police magistrates and sheriffs ;
5. Officers on full pay of Her Majesty's army or navy, and the officers or men of the provincial police force ;
6. Keepers of taverns, hotels or houses of public entertainment, or persons who have acted as such within the twelve preceding months.

204. (*As amended by 36 Vict., ch. 21, s. 5.*) Whosoever has no domicile or place of business in a municipality is incapable of exercising any municipal office of such municipality, except those of secretary-treasurer, auditor, valuator or special superintendent.

205. No person receiving any pecuniary allowance or other consideration from the corporation for his services, or having, directly or indirectly, by himself or his partner, any contract or interest in any contract with the corporation, can be appointed a member of the council of the said corporation, or act as such.

Nevertheless a shareholder in any incorporated company, which has any contract or agreement with any corporation, is not disqualified from acting as a member of the council of such corporation.

The word "contrat" used in the first provision of this article does not extend to any lease, nor to any sale or purchase of lands, nor to any loan of money, nor to any agreement respecting any of these acts.

206. Other disqualifications relative to certain municipal offices, are prescribed in the provisions respecting these offices.

207. Whoever has been appointed to any municipal office for which he becomes disqualified during his exercise of such office, is bound to give without delay, at the office of the council, a notice alleging the reasons of his disqualification and tendering his resignation.

Until such notice is given, such person is deemed to have continued in the exercise of such office, and is liable to all penalties, prosecutions and other rights of action set forth in this code.

208. If the disqualification of a person appointed to a municipal office or holding the same is notorious or sufficiently established, the council may by resolution declare the office of such person vacant, saving any recourse on the part of the person appointed. The vacancy must then be filled in the ordinary manner and within the delay prescribed.

SECTION III.

Of persons exempt from Municipal Offices.

209. The following persons are not bound to accept any municipal office, nor to continue to hold the same :

1. Members of the senate, of the house of commons, of the executive council and of the provincial legislature ;

2. All civil functionaries, the employees of the federal and provincial legislature, and the officers of the militia staff ;

3. Advocates, notaries, provincial land surveyors, physicians, apothecaries and teachers, engaged in their respective professions ;

4. Licensed pilots and persons engaged in navigation ;

5. Any miller, being the only person employed as such in a mill ;

6. Persons of over sixty years of age ;

7. Gaolers and keepers of houses of confinement or correction or of reformatories ;

8. All persons employed on iron or wooden railways.

210. Any person having discharged any municipal office, during the two years next preceding, may refuse to accept any office whatever under the same council during the two years next after such service.

211. Any person actually engaged in an office under any municipal council, may, while he is discharging the duties of such situation, refuse to accept any other office under the same council.

212. Any person who has paid a penalty for refusal to accept any municipal office, is exempt from filling any office whatsoever, under the same council, during the period for which he had been appointed.

213. Any person, who has been appointed to a municipal office from which he is exempt, or who while filling any office becomes exempt, and desires to avail himself of such exemption, is bound to lodge in the office of the council, a special notice to that effect, within the fifteen days following the notification of his appointment, or upon the day when he becomes exempt from filling such office.

In default of his so doing, he can no longer claim his exemption.

CHAPTER FOURTH.

OF MUNICIPAL NOTICES.

SECTION I.

General Provisions.

214. Every notice given, under the provisions of this code or of the orders of a municipal council, or for municipal purposes, must be drawn up, and published or served, in accordance with the formalities prescribed in this chapter.

215. (*As substituted by 41-42 Vic., c. 10, s. 14.*) Every notice so given is either special or public.

The public notice must be in writing, but the special notice may be given either in writing or verbally, except in particular cases, in which a special notice must be given in writing.

216. All notices in writing, must contain :

1. The name of the municipality, when such notice is given by an officer or by the head of such municipality ;

2. The names and signature of the person who gives it, and his official capacity ;

3. A sufficient description of those to whom it is addressed ;

4. The place where it was made and the time when it was made ;

5. The object for which it is given ;

6. The place, day and hour in which those summoned to answer such notice, must do so.

217. Public notices are published ; special notices are served.

218. Every copy of a notice in writing, which must be served, published, posted up or read, is attested either by the person who gives such notice, or by the secretary-treasurer of the corporation under whose control such person acts.

219. The original of every notice in writing must be accompanied by a certificate of publication or of service.

The original of such notice and the certificate which accompanies it must be filed by the person who has given it in the office of the council, to form part of the municipal records.

220. The certificate is drawn up by the person who published or served the notice ; it must contain :

1. The residence, name and signature of the person who has given it, and his official capacity ;
2. The description of the manner in which the notice was published or served ;
3. The place, day and hour of publication or of service.

The truth of the facts set forth in such certificate must be attested under the oath of office of the person giving it, if such person has taken an oath as an officer charged with making such services, and if not by his special oath.

This certificate is written either on the original notice or on a paper annexed thereto. (1)

221. In the case of a special notice given verbally

(1) **Held :** That the certificate of publication of notices by a secretary-treasurer and by a bailiff under their oaths of office is insufficient, and a *procès-verbal* on which the notices are thus attested by these officers, will be set aside, even although it be proved at the trial that the publications were duly made.—**CANTWELL VS. CORPORATION OF THE COUNTY OF CHATEAUGUAY, XXIII L. C. Jurist, 263.**

the affirmation under oath of the person who served such notice, takes the place of the certificate of service ; this affirmation is only required in case of contestation and must contain the object of the notice.

222. Every owner of land or rate-payer, domiciled without the limits of a municipality, may, by a special notice filed in the office of the council, appoint an agent to represent him for all municipal purposes.

223. Any person who has acquiesced in that which is required by a notice, or who has in any manner whatsoever become sufficiently acquainted with its tenor or object, cannot thereafter avail himself of the insufficiency or informality of such notice or of the omission of its publication or service.

SECTION II.

Of Special Notices.

224. Every special notice must be drawn up or given in the language of the person to whom it is addressed, unless such person speaks a language other than French or English.

The special notice addressed or given to any person who speaks neither the French nor the English language, or who speaks both of these languages, is given to him in either language.

225. The service of a special notice given in writing, is effected by leaving a copy of the notice with the individual to whom it is addressed; in person, or with a reasonable person at his domicile or at his place of business, even when it is occupied by him in partnership with some other person ; except in cases where the service is made by mail.

226. Every special notice in writing addressed to an absent proprietor or rate-payer, who has appointed an agent residing in the municipality, must be served on such agent, in the same manner as on a resident proprietor.

If an agent, resident in the municipality, has not been appointed, every such notice is served by lodging in the post office of the locality, a copy thereof in a sealed and registered envelope addressed to the absent proprietor or rate-payer or to any other agent he may have appointed.

227. A special verbal notice is given by the person who should give it, or on his behalf, to the individual to whom it is addressed, in person, or to a reasonable person at his domicile, or at his place of business, provided such individual is domiciled within the limits of the municipality.

If such individual is absent, the special verbal notice intended for him is either communicated to his resident agent, if he has appointed one, or is given to himself personally or to a reasonable person, at his domicile, or at his place of business, if not, the notice must be communicated by post as a special notice in writing.

228. No one is bound to give a special notice to any proprietor absent, who has not appointed an agent, unless such proprietor has made known his address in writing by filing the same in the office of the council.

229. Special notices may be served between the hours of seven o'clock in the morning and seven o'clock in the evening, and even upon holidays.

Special notices, however, cannot be served at places of business, except upon juridical days, and between the hours of nine in the morning and four in the afternoon.

230. If the doors of the domicile or place of business, where service of a special notice in writing should be made, are closed, or if there is no reasonable person therein, service is effected by affixing a copy of the notice on one of the doors of the domicile or place of business.

231. The intermediate delay after special notice, dates exclusively from the day on which such notice was served.

SECTION III.

Public Notices.

232. (*As amended by 45 Vic., c. 35, s. 7.*) The publication of a public notice for local municipal purposes, is made by posting up a copy of such notice at two different places in the municipality from time to time determined on by resolution of the council.

In default of localities determined upon by the council, the public notice must be posted upon or near the principal door of at least one place of public worship, if any there be, and at some other place of public resort in such municipality; and in either case, if there is a Roman Catholic church, in the municipality, the said notice shall be posted upon the principal door of such church.

233. When a rural municipality is adjacent to a city, town or village municipality, incorporated under any act whatsoever, one of the localities determined upon by the council of the rural municipality, for the posting of public notices, may be situated in such city, town or village municipality.

The word "town" in this article applies to all cities or towns erected into municipalities under this code or any other law, except the cities of Quebec, Montreal and Three Rivers.

234. The local council may also, by resolution,

fix one or more localities in the municipality, or in a neighboring city, town or village municipality, if such city, town or village municipality forms part of the same parish or of the same township as the former, in which any public notice must be read out aloud in a distinct manner on the Sunday next following the day on which the same was published at the close of divine service, if such service has been held.

The omission to read this notice does not invalidate the publication of the notice, but the persons who were bound or who undertook to read it thereby incur a penalty of not less than two nor more than ten dollars.

235. In so far as respects a public notice given for county purposes, the same is published in all the local municipalities, to the inhabitants whereof it is addressed. It is posted up and read in the same localities and in the same manner as public notices given for local purposes in such municipalities.

The officers of the county council giving such notice, may, by letter, order the secretary-treasurer of each such local municipality, after having transmitted to him as many copies of such notice as are requisite, to provide that the same be posted up and read as required, and that a certificate of the publication thereof be transmitted to them without delay, under the usual penalties.

236. Every time a notice is ordered to be published in one or more newspapers, such notice must be inserted in newspapers published at least once a week in the county, if any there be, if not, in newspapers of the district, or of the neighboring district, if no newspapers are published in the first district.

The same rule applies when such notice must appear in two newspapers published in different languages.

237. No notice can be inserted in English and in French in newspapers published in one of these languages only.

238. Every public notice convening any public meeting or for any object whatever, must be given and published seven clear days before the day appointed for such meeting or other proceeding, except in cases otherwise provided for.

239. Except in cases otherwise provided for, the intermediate delay after a public notice, dates from the day on which such notice has been made public, in virtue of article 232 or of article 235 ; if it is ordered that the notice must be published in a newspaper, the intermediate delay dates from the day of the first insertion of such notice ; if the notice is published in several newspapers upon different days, the intermediate delay dates from the day of the first insertion made in the newspaper which published such notice last. In all cases the day on which the notice was made public does not count.

240. Public notices are applicable to and binding upon proprietors or rate-payers domiciled out of the municipality, in the same manner as they are upon residents, except in cases otherwise provided for.

CHAPTER FIFTH.

OF THE LANGUAGES TO BE USED IN THE COUNCIL AND IN MUNICIPAL PROCEEDINGS.

241. In the sessions of council, whoever has a right to be heard, may use either the French or the English language.

242. The books, records and proceedings of every municipal council are kept, and all certificates of pub-

lication or service, and every other document produced or filed in the office of the council, are written in either the French or the English language.

243. In any municipality for which there is no order of the lieutenant-governor in council, in virtue of the tenth section of the consolidated municipal act of Lower Canada, or of the following article, the publication of every notice, by-law, resolution or order of the council, by posting, reading aloud, or insertion in the newspapers, must be made in the French and English languages.

244. The lieutenant-governor, by an order in council, upon a petition being made to him to that effect by any municipal council, may declare that the publication of any public notice, by-law, resolution or order of the council, in such municipality, except such as are required to be made in the Official Gazette of the province, shall be made thereafter in one language only. Such language is determined by the said order in council.

The resolution under which the petition of the council is made, cannot be adopted until after a public notice to that effect has been given to the inhabitants of the municipality.

A copy of such order by the lieutenant-governor in council, is transmitted without delay to the secretary-treasurer of the municipality to which it applies.

245. The provincial secretary must publish the order in council in the Quebec Official Gazette; and from the date of such publication, every public notice, by-law, resolution or order of the council, may be published solely in the language ordered thereby, except in the Official Gazette of the province.

Nevertheless, the simultaneous use of any other language does not render the document published in such language invalid.

TITLE THIRD.

PARTICULAR RULES APPLICABLE TO COUNTY
CORPORATIONS.

CHAPTER FIRST.

OF THE COUNTY COUNCIL.

General Provisions.

246. The county council is composed of the mayors in office of all the local municipalities in the county which are subject to the provisions of this code.

Such mayors bear the title, in the county council, of "county councillors."

247. The head of the council is called the "warden," and is chosen from among the members who compose the council.

SECTION I.

Of the Warden.

248. The warden is appointed by the members of the county council, during the month of March in each year.

In a county municipality newly established, the appointment of the first warden takes place at the first general session of the council held after the corporation is organized, or at the special session convened for that purpose in conformity with article 257.

249. When the office of warden becomes vacant, the council must proceed to the appointment of a new warden at the next general session, or sooner at a special session convened for that purpose.

250. Whenever the county council allows the delay for the appointment of a warden to expire without making such appointment, the lieutenant-governor may make the appointment with the same effect, according to the rules laid down in articles 177, 178, 179, 180 and 181.

251. The warden holds office from his entry into the same until the appointment of his successor, except in the case mentioned in the following article.

252. The warden appointed by the council may be at any time removed from his office by a resolution approved of by the vote of two-thirds of the members of such council, provided that his successor be appointed at the same time and by the same resolution.

253. The appointment of a warden made by the council may be objected to and contested by the members of the council and by no one else.

Such contestation is begun, tried and decided in conformity with the procedure set forth in chapter seven of title four of this book.

254. Whosoever has been appointed to the office of a warden and refuses illegally to accept such office, incurs a penalty of forty dollars.

255. In every newly organized municipality until the appointment of a warden has been made, and in every other municipality, during any vacancy in the office of warden, the duties of such office are discharged by the registrar of the county, saving the provisions respecting the presidency at the council board.

SECTION II.

Of the Sessions of County Councils.

256. The ordinary or general sessions of county councils are held on the second Wednesday in each of

the months of March, June, September and December, any by-law in force at the time of the coming into effect of this code to the contrary notwithstanding.

257. In a newly organized county municipality a special session of the council must be held as soon as possible after the organization of the corporation.

Such first session is convened by the registrar of the county, and presided over by him until the appointment of the warden.

258. The sessions of the council are held in the chief-place of the county.

If at the time of the convocation of the first session of the council by the registrar, the chief-place has not been determined upon, such first session is held at the place chosen by the registrar, and the council continues to hold its sittings there until the chief place has been fixed upon.

259. Five members of the council, where the council is composed of seven members or more, and three, if the council is composed of less than seven, form a quorum.

260. The notice of convocation of the special sessions of the county council, as well as the notice of adjournment in the case prescribed by article 139, must be given to the members of the council at least ten days before the day fixed for the session, or the resumption of the adjourned session.

Such notice may be forwarded by registered letter through the post, the postage thereof being prepaid.

CHAPTER SECOND

OF COUNTY DELEGATES.

SECTION I.

General Provisions.

261. The delegates of every county corporation are three in number.

These delegates exercise the powers and fulfil the duties which devolve upon them in virtue of this code, in conjunction with the delegates of other county corporations concerned.

262. (*As substituted by 41 Vic., c. 18, s. 10.*) The warden is *ex-officio* one of the county delegates.

The two other delegates are appointed by the council from amongst its members after the entry into office of each new warden. They remain in office until their successors are duly installed, even if they have ceased to form part of the council, unless, in the latter case, they have been replaced under the provisions of the following article.

263. Whenever any one of the delegates dies, or becomes incapacitated from attending to his duties during two consecutive months by absence, sickness or any other cause, or refuses to fulfil such duties during a like period, the council appoints another delegate in his stead, at the first session held after such death, or delay of two months. If one of the delegates ceases to form part of the council, his successor must be appointed without delay, by the council.

264. If the council neglects or refuses to appoint the delegates whom it is bound to appoint under the two preceding articles, within thirty days after a demand made upon it to that effect, such delegates may be appointed by the lieutenant-governor in the manner

set forth in articles 177, 178, 179, 180 and 181 ; subject, however, to the provisions of article 101.

265. (*Repealed by 41 Vic., c. 18, s. 11.*)

SECTION II.

Of the Board of Delegates.

266. The board of delegates is composed of the delegates from each of the county municipalities, of which the inhabitants or some of them are interested in any work or matter which comes under the jurisdiction of the councils of such municipalities.

267. The board of delegates sits, for the purpose of taking into consideration and deciding matters within its jurisdiction, whenever required so to do or whenever it deems necessary, in following the formalities prescribed for the summoning of the meeting.

268. The delegates meet at the time and place indicated in the notice of meeting given to them.

269. The meeting of the board of delegates is convened, upon a requisition in writing, by two members of the board or by the secretary-treasurer of one of the county municipalities.

Such meeting is convened and held in the same manner as a special session of a county council.

The place where such meeting is held is selected by the members or by the secretary-treasurer who convenes the same.

270. Any person interested in a question submitted or about to be submitted to the board of delegates, may require the secretary-treasurer of one of such county municipalities to convene a meeting of the

board of delegates, if a meeting of such board has not already been convened to be held within the fifteen days following.

271. (*As amended by 45-46 Vic., c. 35, s. 8.*) The secretary-treasurer of the county council who called the meeting, is, in virtue of his office, the secretary of the board of delegates.

If the meeting has been convened by two members of the board, the secretary-treasurer of the council whereof such two members are the delegates is the secretary of the board. If the two members belong to different councils, the secretary of the board is appointed by the delegates and must be the secretary-treasurer of one of the county municipalities.

The secretary keeps minutes of the proceedings of the delegates, and deposits the same with all other documents of the board in the archives of the council whose officer he is; and he forwards a copy to the office of each of the other county councils interested. The secretary-treasurer of each county council shall forward to each local council interested within the county municipality, a copy of every decision of the board of delegates.

272. Three of the delegates summoned to the meeting form a quorum of the board.

273. The meeting is presided over by any one of the delegates present, chosen among themselves.

In the case of an equal division of votes, in their choice of a chairman, the chairman is chosen from among them by lot.

274. Every disputed question is decided by the vote of the majority of delegates present, including that of the chairman.

In the event of an equal division of votes, the chairman has also the casting vote.

275. Articles 100 and 102, apply also to all documents, orders or proceedings of the board of delegates

TITLE FOURTH.

RULES COMMON TO EVERY LOCAL MUNICIPAL
CORPORATION

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CHAPTER FIRST.

OF THE LOCAL COUNCIL.

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SECTION I.

General Provisions.

276. The local council is composed of seven councillors elected by the electors of the municipality, in the manner hereinafter set forth, or appointed by the lieutenant-governor where no election has taken place.

277. The office of municipal local councillor lasts three years, except in the cases of articles 116 and 279.

278. At the first general municipal election held after the coming into force of this code, as well as at the first general election held in every local municipality erected thereafter, or in which there is no council in operation, seven councillors must be elected, or, in default of election, appointed, and they go out of office and are replaced in the manner set forth in the following article.

279. Of the seven councillors elected at such election, or appointed by the lieutenant-governor in default of an election :

1. Two must be replaced at the time of the next general municipal election ;
2. Two others at the same period in the year which follows that lastly mentioned ;

3. And the three last, also at the same period in the following year.

And so on, in such manner that two local councillors must be elected or appointed two years consecutively, and three every three years.

280. (*As amended by 36 Vic., ch. 21, s. 6.*) The councillors mentioned in paragraphs one and two of the preceding article must be selected by lot at a session of the council, in the month of December preceding the month of January in which they must be replaced; in default of this being done, the retiring councillors are chosen by lot by the presiding officer of the election in presence of the municipal electors or designated by the lieutenant-governor, when they are to be replaced by him.

No election or appointment can take place to fill the office of such councillors, until they have been so selected by lot or designated.

281. The head of the local council is called the mayor.

He is also known and designated as "mayor of the council," or "mayor of the corporation," or "mayor of the municipality," or simply as "mayor," when the name of the municipality, of the council, or of the corporation is sufficiently indicated in the document.

282. Every local councillor remains in office from the taking of his oath of office until the time of the general municipal election, at which he is to be replaced, and not beyond that period.

SECTION II.

Of persons disqualified from acting as Councillors.

283. (*As amended by 35 Vic., c. 8, s. 2, by 41-42 Vic., c. 10, s. 15, and by 45 Vic., c. 35, s. 9.*) No one

can be appointed a member of the council of a local municipality, nor act as such, if he does not reside within the limits of such municipality, or if he does not hold his place of business therein, and if he does not possess therein, in his own name or in the name and for the benefit of his wife as proprietor, real estate of the value of at least four hundred dollars ; or if at the time of his election he is not a municipal elector.

On a demand in writing made before the council by a member of such council or by a rate-payer, to any councillor present, such councillor shall, within eight days, give in writing and under oath, a declaration of qualification, containing the description of the real estate on which he bases his qualification and deposit it in the office of the council.

284. Nevertheless any person domiciled in a village, town or city municipality incorporated by any law whatever, may, if he possess the other necessary qualifications, be a member of the council of a rural municipality which is adjacent to the municipality in which he is domiciled, provided always, that he does not fill any municipal office in the municipality in which his domicile is situated.

285. No one actually presiding at an election of councillors can be elected councillor at such election.

SECTION III.

Of Sessions of the Council.

286. In every newly organized municipality, the first session of the council is held at the time and place indicated by the warden of the county, in the notice of appointment which he addresses to the person whom he appoints to preside at the first election of the municipality.

If the councillors or some of them have been appointed by the lieutenant-governor, such first session is held

at the time and place fixed upon by the person to whom the letter communicating the appointment of the councillors has been addressed.

Until the appointment of the mayor, such first session is presided over by one of the councillors who compose the new council.

Such session is an ordinary session of the council.

287. Ordinary or general sessions of the council take place, also, on the first Monday in each month, unless it be otherwise provided by the council in virtue of article 611.

288. The council sits at the place selected for the first session, in virtue of article 286, until by resolution it shall have fixed upon some other place.

289. Four members form a quorum of the council.

290. The notice of convocation of every special session of the local council as well as the notice of adjournment in the case prescribed by article 139, must be given to the members of the council at least two days before the day fixed for the session or the resumption of the adjourned session.

CHAPTER SECOND.

OF MUNICIPAL ELECTORS.

291. (*As amended by 41-42 Vic., c. 10, s. 16.*) Every person who possesses, at the moment he exercises such rights and privileges, the following conditions is a municipal elector, and as such has the right to vote at the election of local councillors, and to exercise all the rights and privileges conferred on municipal electors by the provisions of this code, subject to article 497.

1. He must be of the male sex, have attained the age of majority, and be a British subject ;

2. He must have been in possession, in the municipality in which he seeks to exercise the right of an elector, either in his own name or in the name and for the benefit of his wife, as appears by the valuation roll in force, if there is one, as proprietor of real estate of the actual value of at least fifty dollars, or as tenant, farmer or lessee or as occupant by any title whatsoever of real estate of the annual value of at least twenty dollars ;

3. He must have paid all the municipal and school taxes due by him at such period ;

4. His name must be entered in the valuation roll, if there is one in force in the municipality, either as proprietor, lessee or occupant.

CHAPTER THIRD.

ELECTIONS OF LOCAL COUNCILLORS.

SECTION I.

Time of holding General Elections ; Notice required therefor.

292. The general elections for all local municipalities take place every year, on the second Monday in the month of January, at ten o'clock in the morning.(1)

293. (*As amended by 41 Vic., c. 18, s. 12.*) In every newly erected local municipality, the first general election of councillors must be held at the same hour,

(1) **Held :—**That the absence of the secretary-treasurer from the municipal office during the week preceding the election, and the impossibility resulting therefrom for the electors of paying their taxes and thereby acquiring the right to vote, is not a ground for annulling an election, if this absence be justified by good reasons and is exempt of fraud, and if, in fact, only one elector came to pay his taxes and could not, by reason of this absence, pay them and thereby qualify himself to vote.—**MORRIER & RASCONI, VII Revue Légale, 140.**

on the day fixed by the warden of the county, which day shall not be less than fifteen nor more than thirty days from the issuing of the proclamation.

The subsequent general elections of such municipality take place at the period fixed in the preceding article.

294. Public notice of each general election, in every local municipality, must be previously given, by the secretary-treasurer or by the mayor, announcing such election, and calling together a general meeting of the electors of the municipality, at the time and place indicated, for the purpose of electing their councillors.

In the case of the first election subsequent to the erection of a new local municipality, the notice must be given by the warden of the county

295. (*As amended by 36 Vic., c. 21, s. 7 and by 45 Vic., c. 35, s. 10.*) The omission to give such public notice does not prevent the meeting of the municipal electors from being held for such election except in a newly erected municipality; and each and every of the persons who have neglected to give such notice within the prescribed delays, incurs a penalty of not less than five nor more than twenty dollars.

SECTION II.

Of the Officer presiding at the Elections.

296. The election of local councillors is presided over by a person appointed to do so by a resolution of the local council. He may be one of those members of the council who do not go out of office at the time.

If no one is appointed to preside at such election, or if the person appointed is absent, the secretary-treasurer of the council is *ex-officio* the presiding officer at the election (1).

(1) **HELD** :—That the assistant secretary-treasurer has the right to preside at the meeting of electors for the election of the councillors as the secretary-treasurer himself.—**MARRIER & RASCONI**, VII, *Revue Légale*, 145.

297. The first election of a newly organized municipality is presided over by a person appointed for that purpose by the warden of the county.

298. If, at the time fixed for the election, the person who should preside thereat and the secretary-treasurer are both absent, or if neither has been appointed, the meeting is presided over by the senior justice of the peace, or, in the absence of a justice of the peace, by any person at the meeting chosen by the majority of electors present.

299. The person presiding at the election cannot vote thereat, except in the case specified in article 321.

300. The person presiding at an election of councillors is a keeper of the peace from eight o'clock in the morning of the day on which the meeting of municipal electors is held, until nine o'clock in the morning of the day which follows the close of the election. He possesses in this respect all the powers of justices of the peace, and may exercise them throughout the whole municipality.

301. The presiding officer at the election may, moreover, for the purpose of preserving peace and public order :

1. Swear in as many special constables as he deems necessary ;

2. Require the assistance of all justices of the peace, constables, or other persons residing in the municipality, by verbal or written order ;

3. Commit on view to the custody of a constable or of any other person, for a period of not more than forty-eight hours, any one breaking the peace or disturbing public order ;

4. By a warrant under his hand imprison such offender in the common gaol of the district, or in any

house or other place of confinement established within the limits of the county municipality, for any period not exceeding ten days.

302. Within the three days next after the close of the election the officer presiding must give, to each of the councillors elected, special notice of his election.

If he is the presiding officer at the first election of a newly erected municipality, he must, in the special notice given to the councillors elected, designate the time and place of the first session fixed upon by the warden of the county. If the latter has not fixed the time or place for the session, the presiding officer himself does so.

303. Within the eight days next after the close of the election, the presiding officer must make the result of the meeting known to the warden or to the secretary-treasurer of the county council; if there has been an election of councillors, he must give at the same time the names, sur-names, quality and residence of each of the councillors.

304. If a poll has been held, the presiding officer must, within the said delay of eight days, deliver up the poll books kept by him at such election at the office of the local council, to be lodged among the archives of such council.

305. Every person who has been appointed, whether by the warden, by the council, or by the court under article 361, to preside at an election of local councillors, is at liberty to decline such office, on his transmitting within four days from the notification of his appointment, special notice of his refusal to the warden, the council, or the court which appointed him. In default of his so doing, he is no longer at liberty to refuse such office.

306. The services of presiding officer at an election are given gratuitously; nevertheless, the council

must reimburse all expenses necessarily incurred by him on account of the election, and may, moreover, allow him an indemnity for his services.

SECTION III.

Meeting of Municipal Electors.

307. (*As amended by 36 Vic., ch. 21, s. 8*). The meeting of municipal electors is held at the place where the local council holds its sessions, and must be opened at the hour of ten in the forenoon, of the day fixed for the election.

Nevertheless the council of a rural municipality whose sessions are held in a municipality of a city, of a town or of a village, in virtue of article 106 may by resolution fix upon another place for the holding of such meeting.

If it is the first election after the erection of a new municipality, the meeting is held at the place designated in the notice.

308. The presiding officer, after having opened the meeting, requests the electors present to propose those persons whom they wish chosen as local councillors. (1)

309. The presiding officer is bound to receive and propose as candidates, the names of all persons submitted to him, whether verbally or in writing, by at least two of the municipal electors present.

Nevertheless no one can be proposed for election unless at the time, his name and sur-name, as well as the names and surnames of his proposers are given. (2)

(1) **HELD**:—That the fact that those who proposed the candidates were disqualified to vote, does not annul the election, if no objection was made when they were put in nomination nor at the opening of the poll, and if the votation took place regularly.—**MARRIER & RASCONI**, VII *Revue Légale*, 140.

(2) Mistakes of the officers which in no way affect the right to vote or the exercise of this right, do not carry nullity unless the

310. If after one hour has elapsed from the opening of the meeting, as many candidates as there are councillors to be elected, or fewer candidates than the required number, have been proposed for election as councillors, the election is declared at an end, and the presiding officer proclaims the candidates proposed for election, duly elected.

311. One hour after the opening of the meeting, if more candidates have been put in nomination than there are councillors to be elected, the presiding officer, upon a requisition by five electors present, proceeds without delay to hold a poll, and to enregister the votes of the electors present.

Nevertheless, if among the candidates put in nomination there are any to whom there is then no opposition, the presiding officer declares such candidates elected, and the poll is held for the other candidates only.

312. (*As amended by 41 Vic., c. 18, s. 13 and by 45 Vic., c. 35, s. 11.*) In the absence of a demand from five electors present to the effect that a poll be held, the presiding officer declares elected councillors, the candidates who have the majority of electors present in their favor, after having established such majority by counting the electors present who are in favor of each candidate.

313. The presiding officer, if a poll is opened, must enter or cause to be entered, in a book kept in accordance with the conditions hereinafter prescribed, and in the order in which they are given, the votes of the

law declares it; and the rule is that all omission which did not prejudice the free exercise of the right to vote cannot invalidate an election.

The law does not require and could not reasonably require under penalty of disqualification, that the candidates be present at the election to be examined as to their qualification.—*BUREAU vs. NORMAND, V. Revue Légale, 40.*

electors, by entering therein the names and qualities of each. (1)

314. Every elector may vote for as many candidates as there are councillors to be elected in the municipality, or in the ward if the municipality is divided in virtue of article 617.

315. Any person tendering his vote, must take the following oath or affirmation, before the presiding officer, if required so to do by him, by an elector, by any candidate, or by the representative of any candidate :

I swear (*or I affirm*) that I am entitled to take part in this meeting, that I am duly qualified to vote at this election, that I am at least twenty-one years of age, that I have paid all municipal and school taxes due by me, and that I have not already voted at this election: So help me God.

If such elector refuse to take such oath, his vote must be refused. (2)

316. Any person voting at an election of municipal councillors, without possessing at the time of giving his vote the qualification of a municipal elector, incurs a penalty of twenty dollars.

317. Whenever the presiding officer does not understand the language spoken by one or more electors, he must appoint an interpreter, who, before acting,

(1) **HELD :—**That the omission of the quality of the electors in the poll-book is not a cause of nullity of the election, if no injustice has resulted therefrom ; because this formality does not bear on the note itself and does not essentially effect the election.—*MORRIER & RASCONI, VII Revue Légale, 140.*

(2) **HELD :—**That the vote of a municipal elector registered after that such elector has refused to give the oath required by art. 315, M. C., is null and will be pronounced as such by the court.—*DALBEC & PORTELANC, VI Q. L. R., 17.*

takes, before such person presiding, the following oath :

I swear (or affirm) that I shall faithfully translate the oaths, declarations, affirmations, questions and answers which the person presiding shall require me to translate, respecting this election : So help me God.

318. Each page of the poll-book must be numbered in writing, and initialed by the person presiding at the election.

319. If an elector take the required oath, or refuse to take the same, or if objection is made to his vote, mention of each of these facts must be made in the poll-book, in the following terms,—“ sworn ”—“ refused ”—or “ objected to,” as the case may be.

320. The presiding officer at the end of the first day's polling, and at the close of the election, but before proclaiming the candidates elected, must certify, under his signature, on the poll-book, the total number of votes entered, from the first to the last entry in the book, and also the total number of votes given for each of the candidates.

321. In case of an equal division of votes, in favor of one or more of the candidates, the presiding officer is bound to vote, even although he is not a municipal elector, under a penalty of not less than twenty or more than fifty dollars.

322. If, at four o'clock in the afternoon of the first day of the poll, the votes of all the electors present have not been polled, the meeting is adjourned to the hour of ten in the forenoon of the following day, for the purpose of proceeding with the polling of such votes.

323. The election must be closed at four o'clock in the afternoon of the second day.

324. If at any time after the votes have commenced to be polled, either on the first or on the second day of the said election, one hour elapses without any votes having been polled the presiding officer must close the election.

Nevertheless, if notice under oath is given to the presiding officer that an elector has been, within the hour last past, prevented from approaching the poll by violence, the election cannot be closed until the expiration of one hour after such violence has ceased.

325. At the close of the election, the presiding officer declares such of the candidates as have obtained the largest number of votes duly elected councillors.

CHAPTER FOURTH.

APPOINTMENT OF LOCAL COUNCILLORS BY THE LIEUTENANT-GOVERNOR.

326. Whenever :

1. A meeting of the municipal electors for the election of local councillors has not been held within the time prescribed by law, or by public notice, if the election is to be held in virtue of article 361, or the meeting having been held no election has been had ;

2. Or an insufficient number of councillors has been elected ;

Then it is the duty of the presiding officer at such election, or of the secretary-treasurer of the corporation, to inform the lieutenant-governor of such fact or facts by a letter addressed to the provincial secretary, within fifteen days after the time fixed for such election.

Any municipal elector may give such information to the lieutenant-governor.

327. The lieutenant-governor as soon as such information is communicated to him, appoints from among the qualified persons in the municipality, an equal number of councillors to the number required to be elected in the case of the first paragraph of the preceding article, or a sufficient number to complete the number of councillors required in the case of the second paragraph of the same article.

When the municipality is divided into wards, in virtue of article 617, the lieutenant-governor can only appoint councillors for those wards in which no election has taken place.

328. The letter of the provincial-secretary, wherein the councillors appointed by the lieutenant-governor are named, is forwarded to the secretary-treasurer of the municipality or to one of the councillors so appointed.

The person receiving such letter must give, without delay, to every councillor named in it, special notice of his appointment.

If such appointment is that of the first councillors of a newly organized municipality, the person receiving such letter, must, in the special notice given to each councillor appointed, at the same time appoint a time and place for the first session of the council.

329. The lieutenant-governor may cancel any appointment of councillors made by him, and if he deems advisable, replace such councillors by others.

CHAPTER FIFTH.

THE APPOINTMENT OF MAYOR.

330. At the first session after any general municipal election, or after any general appointment of councillors by the lieutenant-governor in the absence of an election, the members present if they form a

quorum appoint as mayor of the corporation any one of the councillors possessing the necessary qualifications.

331. So soon as the appointment of mayor has been made, the secretary-treasurer must give a special notice of the fact to the warden of the county, as well as to the person appointed if he was not present at the election.

332. If the appointment of a mayor has not been made by the councillors within fifteen days after such first session, the lieutenant-governor may make the appointment with the same effect, in conformity with the rules prescribed by articles 177, 178, 179, 180 and 181.

333. The mayor remains in office from the moment he takes the oath of office until the appointment of his successor.

334. Whosoever is appointed mayor and refuses illegally to accept or discharge the duties of such office, incurs a penalty of thirty dollars.

335. Nobody can be appointed mayor nor act as such, unless he is able to read and write.

336. If it happens that amongst the members composing the council no one is able to read and write, one of such councillors, previously selected by lot, must be without delay replaced by the appointment by the lieutenant-governor, in the ordinary manner, of a person able to read and write and possessing the other qualifications required for the office of member of such council.

CHAPTER SIXTH.

VACANCIES IN THE LOCAL COUNCIL.

SECTION I.

Vacancies in the Office of Councillor.

337. (As amended by 41-42 Vic., c. 10, s. 17.) The office of councillor becomes vacant in each of the following cases ;

1. When a person has been appointed councillor who is exempt from serving as such, or when a person discharging the office of councillor becomes exempt during his occupancy thereof, and such person has, in either case, complied with article 213 ;

2. In the case of refusal to accept or continue to perform such office ;

3. When the councillor's domicile and place of business are no longer within the limits of the local municipality, unless such domicile or place of business is situated in a neighboring municipality forming part of the same parish or township as the municipality for which he is a councillor ;

4. When a councillor after his appointment has come under one of the disqualifications established by the law and has complied with article 207 ;

5. In the case of the councillor's absence from the local municipality, or of his inability to act through sickness, infirmity or otherwise, during the period of three months consecutively, subject however to the provisions of article 119 ;

6. When the resignation of a councillor has been accepted by the council or when his office has been declared vacant in virtue of article 208 ;

7. In the case of death.

8. When a councillor has neglected to make and deposit within the required delay, the declaration

mentioned in the last paragraph of article 283, subject nevertheless to the application of article 119, in case he should make and deposit his declaration before proceedings have been taken to get the vacancy filled.

338. Notwithstanding any vacancy in the council, the councillors remaining in office continue to exercise their powers and fulfil their duties as such, if they form a quorum. If on the contrary they do not form a quorum, they cannot act as councillors until after such vacancy has been filled up.

339. At one of the sessions after the occurrence of such vacancy the council appoints by resolution, from among the inhabitants of the municipality, a person as councillor, who possesses the necessary qualifications to fill the vacancy.

340. If the council refuse or neglect to fill up a vacancy in the office of councillor within fifteen days after special notice of the occurrence of such vacancy has been lodged at the office of the council by any elector, such vacancy is then filled up by the lieutenant-governor, in conformity with the rules prescribed for the appointment of councillors when no election has taken place.

341. Whenever, in consequence of any vacancies in the council, there are less than four councillors remaining in office, such vacancies can only be filled by the lieutenant-governor, in the usual manner.

SECTION II.

Vacancies in the Office of Mayor.

342. The office of mayor becomes vacant in any of the following cases :

1. When the seat as councillor of such mayor becomes vacant;

2. When the resignation of such mayor is accepted by the council, or when his office has been declared vacant under article 208 ;

3. In the case of a refusal to accept, or to continue to fill the office of mayor, or that of county councillor ;

4. When a mayor has been appointed who is exempt from the office or when the person filling the office of mayor becomes exempt during his occupancy thereof, and who has, in either case, complied with article 213 ;

5. When the mayor, after his appointment, has by law become incapacitated for the office of mayor or county councillor, and has complied with article 207.

343. If the seven councillors remain in office, the election of the new mayor takes place at the first session of the council held after the occurrence of such vacancy, in conformity with article 330.

If, on the contrary, there are vacancies in the office of councillor, such election takes place at the first session of the council, held after all the vacancies in the office of councillor have been filled up.

344. If the appointment of a new mayor is not made at the time fixed by the foregoing article, it can be made by the lieutenant-governor in conformity with the ordinary rules.

345. The council may at any time appoint a pro-mayor, who in the absence of the mayor or when the office is vacant, discharges the duties of the mayoralty, with all the privileges, rights and obligations thereunto attached.

CHAPTER SEVENTH.

CONTESTED APPOINTMENTS OF MEMBERS OF THE LOCAL COUNCIL.

346. Any appointment of councillor made by the electors may be contested by any candidate or by five

municipal electors, on the ground of violence, corruption, fraud or incapacity, or on the ground of the non-observance of the necessary formalities.

347. The appointment of the mayor may also be contested on the same ground by any member of the council.

348. The examination and decision of such contestation is vested in the circuit court of the district or county, or in the magistrate's court of the county in which the municipality is situated, to the exclusion of all other courts.

349. Such contestation is brought before the court by a petition in which are set forth the facts and reasons alleged in support of the contestation.

The petitioners may also in their petition, indicate the persons who have a right to the office in question and state the facts necessary to establish such right.

350. A copy of the petition, with a notice stating the day on which the petition will be presented to the court, is served upon every councillor whose appointment is contested, within thirty days from the date of such appointment; otherwise the right of contesting is forfeited.

350a. (*Added by 39 Vic., c. 29, s. 2.*) The delay to take proceedings in the manner specified in articles 350, 708, 925, 926, 927, 1064 and 1067 shall be thirty days, in lieu of the various delays accorded by the said articles, which are to such extent repealed. The delay to return the writ of appeal, in the terms of article 1070, shall be forty days.

351. No such petition can be presented or received after the close of the first term of the court, next following the day when each contested appointment was made.

Nevertheless if the appointment was made within the fifteen days preceding such first term, the petition may be presented on the first day of the second term.

352. The petitioners must give security for the costs at least ten days before the petition is presented to the court; otherwise such petition cannot be received by it.

353. The security required by the foregoing article is put in before the clerk of the court.

The sureties must be owners of real estate to the value of two hundred dollars, over and above any incumbrances there may be on such property. One surety suffices, provided he is an owner of real estate to the required value.

354. Such petition is presented in open court, together with the returns of the preliminary services.

355. If the court, after having heard the parties, is of opinion that the grounds set forth in the petition are sufficient in law to have the appointment declared null, it orders proof to be adduced and the parties interested to be heard, on the day of term it deems the most convenient.

356. The court proceeds in a summary manner to hear and decide such contestation.

The evidence may be taken orally or in writing, in whole or in part, as the court shall order.

357. The court by its judgment may confirm or annul the appointment, or declare another person to have been duly elected (1).

(1) *Held* :—That when the law does not declare that if one of the candidates is not qualified and is unable to sit for this reason, the other candidate, although he has not obtained the majority of votes, shall be proclaimed elected; the judge cannot order so, and, in such case, there must be a new election.—*BUREAU vs. NORMAND V Revue Légale*, 40.

358. The court may condemn either of the parties to pay the costs of the contestation; and such costs are taxed and are recoverable against all parties to the suit and their sureties.

The judgment of the court in so far as regards the costs, is executory against the sureties, fifteen days after a copy thereof has been served upon them.

359. The court may order that its judgment be served at the expense of the party against whom the judgment has been given, upon the warden or upon the registrar, and on any person it may deem proper.

360. If the trial of the contestation is not concluded at the close of the term of the court to which the petition was presented, the sitting judge must continue it without interruption during the vacation, adjourning from day to day until he delivers his final judgment upon the merits of the contestation.

361. If the judgment annuls the election of the local councillors or any one of them, without stating who should fill such offices, the court must in the same judgment order a new election to replace the councillors whose appointments are so annulled, name for that object a person to preside at such election and fix the day and hour upon which a meeting of the municipal electors is to be held.

Such day must not be sooner than fifteen nor later than twenty days from the date of the judgment.

362. Such election must be announced by public notice, by the mayor in office, or by the secretary-treasurer, if there be no mayor in office or if the mayor is the councillor whose appointment has been annulled.

If there be neither a mayor nor a secretary-treasurer in office, the notice is given by the warden of the

county, as soon as a copy of the judgment has been served upon him.

The omission to give this notice prevents a meeting of the municipal electors from being held, and renders the persons whose duty it is to give it, subject to the penalty imposed by article 295.

363. In default of the person appointed by the court, the election is presided over by the secretary-treasurer, and in default of that officer, by the senior justice of the peace of the district present at the meeting.

In other respects, the election is held and conducted in conformity with the rules and formalities prescribed in the third chapter of this title, and the councillors elected at such election are invested with the same rights, and are subject to the same obligations and penalties as councillors appointed at general elections, and only remain in office for the time for which the persons whose elections have been set aside were appointed.

364. If the judgment of the court declares the appointment of the head of the council null and void without naming a person to replace him, the council must proceed to elect a new head within thirty days from the date of the judgment.

In default of such election, the head of the council may be appointed by the lieutenant-governor in the usual manner.

CHAPTER EIGHTH.

OF THE OFFICERS OF THE LOCAL COUNCIL.

General Provisions.

365. (*As amended by 39 Vic., c. 29, s. 3.*) Every local council must appoint, in the month of March, every second year, in addition to the municipal officers

which it is required to appoint in virtue of the other provisions of this code :

1. Three valutors ;
2. A road inspector for every road division in the municipality ;
3. A rural inspector for every rural division in the municipality ;
4. As many pound-keepers as it deems necessary.

366. (*As substituted by 39 Vic., c. 29, s. 4.*) The valutors shall enter upon their duties, so soon as they have made oath well and faithfully to discharge all the duties of their office. Road inspectors, rural inspectors, and pound-keepers shall enter upon the discharge of their duties immediately after service of the notice of their appointment.

367. Justices of the peace are exempt from serving as road inspectors, rural inspectors, or pound-keepers.

367a. (*Added by 3^d Vic., c. 21, s. 9.*) Any person appointed to any of the offices mentioned in article 365 of this code, who unlawfully refuses either to accept the same, or to discharge the duties thereof, incurs a penalty not exceeding twenty dollars.

SECTION I.

Provisions specially applicable to the Secretary-Treasurer of the Local Council.

368. The Secretary-treasurer of the local council must keep a "register of roads and water-courses," in which are entered, at full length, in the order of their dates, and certified to be correct by him, all *procès-verbaux*, acts of apportionment and by-laws in force respecting work to be done on the roads, bridges and water-courses to be built and kept in repair in the municipality under the control of the local council.

369. He must note on the margin of every document, so registered, any amendments which are subsequently made to such document, or its repeal in the event of its being repealed.

370. The secretary-treasurer must perform whatever it is his duty to perform under the provisions of the law respecting the jurors list and the list of parliamentary electors.

371. The secretary-treasurer must prepare in the course of the month of November in each year, a statement showing in as many separate columns :

1. The names and qualities of all persons indebted towards the corporation or its officers for municipal taxes, as set forth in the valuation roll, if they are entered therein ;

2. The amount of all municipal taxes remaining due to the corporation by each of such persons or by persons unknown ;

3. The amount of municipal taxes due by each of such persons to the officers of the council ;

4. The amount of school taxes due by each of such persons to the period of the drawing up of such statement, if a statement of such arrears has been lodged in time in the office of the council by the secretary-treasurer of the school commissioners or trustees ;

5. The expenses of collection due by such persons ;

6. The description of all real estate liable for the payment of the taxes mentioned in such statement ;

7. The total amount of taxes and costs affecting such real estate for municipal or school purposes ;

8. The reasons for which such sums were not collected ;

9. All other information required by the council and all remarks connected therewith.

372. Such statement must be submitted to the council and approved of by it.

373. (*As amended by 41-42 Vic., c. 10, s. 18.*) The secretary-treasurer, if he receives an order to that effect from the council, must, before the twentieth day of December of each year, transmit to the office of the county council, an extract of such statement as approved by the council, containing :

1. The names and qualities of all persons indebted for municipal or school taxes, imposed on the real estate possessed or occupied by such persons ;

2. The description of all lands liable for the payment of municipal or school taxes ;

3. The sum total of the taxes affecting such lands, for municipal or school purposes.

SECTION II.

Of Valuators.

374. No person can be a valuator unless he possesses, as proprietor, either in his own name or in that of his wife, real estate to the value of four hundred dollars, according to the valuation roll, if there is one.

375. Valuators, in the execution of their duty, may demand the services either of the secretary-treasurer or of any other clerk.

The secretary-treasurer, or clerk, whose services have been so required, is entitled, for every day during which he is employed, to a sum not exceeding two dollars, payable by the corporation, on certificate from the valutors who employed him.

SECTION III.

Of Road Inspectors.

376. The road inspector is bound to superintend all work ordered to be done in the constructing, improving or keeping in repair of local or county municipal roads, side-walks and bridges, situated within the limits of his division, and to take care that such work be performed in conformity with the provisions of the law, *procès-verbaux*, or by-laws which govern it, unless he be exempted therefrom by an order of the council or of the board of delegates under whose direction such work is being done, or unless a special officer has been appointed to superintend such work.

If any county municipal road is situated partly in one division and partly in another, it is under the joint and several superintendence of the inspectors of the two divisions.

377. Ferries are also under the superintendence of the inspector of the road division, within the limits of which they are situated, unless they have been placed by the council under the superintendence of another officer.

378. Every road inspector appointed for a division has jurisdiction over every person liable to perform the works under his superintendence, whether such person is domiciled within or without the limits of his division.

379. Whenever the inspector of a road district is for any reason whatever, temporarily incapable of acting, the local council may appoint some person to replace him during such incapacity; in default of which the mayor must, during the continuance of such incapacity, place the division under the jurisdiction of another road inspector of the municipality, by a written order served on such inspector.

Such inspector is not thereby released from the

superintendence of the division for which he had been in the first instance appointed.

380. The road inspector, in so far as regards his relations to the county works, whereof he has the superintendence, is an officer of the county council.

380a. (*Added by 39 Vic., c. 29, s. 5.*) Whenever a road inspector is personally interested in any work or other matter within his jurisdiction, and neglects or refuses to execute or supply that which he is bound to execute or supply, as interested in such work or matter, the secretary-treasurer of the local municipality wherein such inspector has jurisdiction, possesses in relation to such inspector the same rights, powers and obligations as the inspector himself, in relation to all persons interested in the same work or matter.

In respect of works to be performed in common, the inspector so interested is always *in mora*, to fulfil the obligations attaching to such works.

381. Every road inspector who refuses or neglects without reasonable cause, to perform any duty which is imposed upon him by the provisions of this code or of municipal by-laws, or which is required of him in virtue of such provisions, or to obey the orders of the local or county council, in respect of the works which are under his superintendence, incurs, in addition to damages caused for each case of neglect or refusal, a penalty of not less than one or more than twelve dollars, except in cases otherwise provided for.

382. (*As amended by 36 Vict., c. 21, s. 10 and by 41 Vic., c. 18, s. 14.*) Whenever any work must be performed in common upon any municipal roads or bridges, it is the duty of the road inspector of the division to notify specially the persons who are liable to perform such work, by special notice either verbally or in writing, or by public notice of three days :

1. Of the time and place where such work must be performed ;

2. Of the quantity and description of materials which are required, and of the time and place where they must be provided ;

3. Of the amount of labor which each must contribute ;

4. Of the description of tools and implements required, which must be of the kind ordinarily used by farmers in the municipality.

However, if the work to be performed in common is not sufficient in the opinion of the council, to justify the making of a call upon the rate-payers interested, the road inspector may cause such work to be performed and the cost thereof to be paid in equal proportions, by the rate-payers interested in such work, as well as the costs of the collection, which shall be taxed by the said council.

383. If the nature of the work demands it, he may require each of such persons to bring or to cause to be brought a certain number of horses or oxen, with proper harness, carts or ploughs, if he have them.

Every day's labor of a horse or yoke of oxen, with harness, carts or ploughs, is credited to the person who brought the same, as one day's work.

384. It is the duty of the road inspector :

1. To direct and superintend the execution of all such work ;

2. To fix the hour of commencing and leaving off such labor, and the time for rest and meals, so that the day may consist of ten clear hours of labor on the spot where the work is to be done ;

3. To dismiss any person who is idle, who hinders the others from working, or who refuses to obey his orders.

He may at once fill up the place of any person who has not attended at the hour appointed for labor, or who has been dismissed, at the costs of the person so in default; such costs may be recovered by the substitute or by the inspector in the manner prescribed for the recovery of penalties imposed by this code.

385. The road inspector must, on resolution of the local council to that effect, procure and keep under his charge, a snow plough, a roller, an iron or steel shod scraper or other implements to be used on the municipal road in his division.

Every person who is bound to perform work on municipal roads, may be compelled by the road inspector of the division, to make use of such implements as part of the road work he is bound to perform.

The use of such implements is gratuitous, and the outlay incurred for their purchase and repair falls upon the local corporation.

386. The inspector of roads must forthwith, or at the expiration of the delay granted in cases which come under the provisions of article 389, cause the removal or suppression of all obstructions and nuisances from the municipal roads, side-walks, ferries and bridges, within the limits of his jurisdiction, by the persons who have occasioned them, or in the event of their refusal or neglect, by any other person whom he authorizes so to do, at the costs of the person in default.

Such costs are recovered in the same manner as penalties imposed by the provisions of this code, and the local corporation is answerable therefor if the person in default is without means.

If the person who occasioned such obstructions or nuisances is unknown, they must be removed at the expense of the corporation of the local municipality.

387. The following are deemed obstructions or nuisances :

1. Filth, dead animals, or other objects placed or left on any municipal road or bridge, or in any water-course or ditch connected with such road or bridge ;

2. Any trench or opening made in any municipal road ;

3. The anchoring or mooring of any vessel, boat or other floating object, at the landing place of any ferry, so as to impede free approach to the beach or to a quay.

388. Whoever has committed any act which may have the effect of obstructing, impeding or rendering inconvenient the free passage of vehicles or foot passengers over any part of a municipal road, side-walk or bridge, or of impeding the free course of water, in connection with such works, is deemed to have occasioned an obstruction or nuisance, within the meaning of the two preceding articles.

389. Whenever such obstruction arises in the course of some work duly authorized by law, by the council, or by the road inspector, under the provisions of any by-law or resolution passed in virtue of article 476, the same is not deemed an obstruction, within the meaning of those articles.

390. Whenever any such duly authorized work is in course of execution on any municipal road, side-walk or bridge, excavations and other dangerous places must be pointed out, both by day and night, in such a manner as to prevent accident, under a penalty not exceeding twenty dollars, for each day during which the provisions of this article are contravened, in addition to any damages occasioned thereby.

391. Whoever causes any obstruction or nuisance on any municipal road, side-walk, ferry or bridge, or

renders the use thereof difficult or dangerous, incurs for each offence, over and above the damages occasioned thereby, a penalty of not less than two or more than ten dollars.

392. The road inspector of the division must make a report to the council respecting any encroachments on the road, side-walks, bridges, and other municipal public works which are under his superintendence.

393. Every road inspector, and every person who accompanies him, or who is authorized by him in writing, may, in the day-time, without previous notice, enter upon any land whatever, whether occupied or unoccupied, inclosed or uninclosed, for the purpose of making a survey for any road, or upon any unoccupied land, for the purpose of searching for timber, stone or materials necessary to carry on any public work, by making compensation for actual damage done.

394. Every road inspector entrusted with the superintendence or direction of labor on any road, bridge, or other public work, may, by himself or by others acting under his direction, and without previous notice, enter in the day-time, to the distance of one arpent from such public work upon any unoccupied land and take therefrom any materials requisite for such work, except fruit-trees, maples, planes, and any other trees preserved for ornament.

395. Such inspector must, as soon as possible, declare on oath, what he believes to be the value of the damage occasioned by the taking of such materials.

If the amount of damage exceeds twenty dollars, it must be assessed by the valuers of the municipality, according to the rules laid down in article 902 and the following articles of the title of expropriation for municipal purposes.

396. The amount of damage is paid by such road inspector, out of the moneys placed in his hands for defraying the cost of such works, to the person who has suffered the damage, all municipal taxes, fines or costs due by such person to the corporation or its officers, being previously deducted therefrom. In default of such moneys, it is payable by the corporation, saving its recourse against the persons bound to perform such works.

397. The road inspector may, without being authorized by the council, perform or cause to be performed, the works required on any municipal front road, by-road, side-walk, or bridge, within the limits of his jurisdiction, which have not been performed in the manner or at the time prescribed by the persons bound to perform such works.

He may also furnish, or cause to be furnished, the materials which should have been furnished for such public works, and which have not been so furnished in the manner or at the time prescribed.

Nevertheless, the cost of the work performed and the materials furnished, in virtue of this article, must not exceed five dollars each year for each piece of land liable for such work, unless the road inspector has previously served on the persons liable for such municipal works, a special notice, either verbal or written, enjoining them to perform such work or to furnish the materials required, within a delay of four days, the whole without prejudice to the penalties or damages incurred by such persons, by reason of their default to execute such work or to furnish such materials in the manner and within the delay prescribed by the *procès verbaux*, by the by-laws or by-law.

In every case, the road inspector who has performed work, or caused the same to be performed, or furnished materials, or caused the same to be furnished, under this article, must, as soon as possible, inform the persons in default thereof, by a special notice,

containing a statement of the amount due for such works or materials.

398. The value of such works or materials, with twenty per cent. in addition thereto, may be recovered by the inspector of roads, as a debt due to himself, together with costs against any person bound to perform such works or furnish such materials, in the manner prescribed for the recovery of penalties imposed by the provisions of this code (1).

399. If the road inspector does not comply with the provisions of article 397, when the labor or materials required on any municipal works, in his division, have not been performed or furnished in the manner and at the time prescribed, he must report thereon to the council.

400. The council, on such report, authorizes the road inspector to cause the work to be done or the required materials to be furnished at the cost of the corporation, by some person selected either by it or by the inspector.

401. The cost of such works or materials is paid on the order of the road inspector, by the secretary-treasurer of the council, and is recovered by the corporation from the persons in default, with twenty per cent. over and above the amount thereof, and costs, in the manner prescribed for the recovery of penalties imposed by this code.

402. The amount of any judgment rendered in favor of the road inspector or of the corporation, on

(1) **HELD:**—That in an action instituted under acts. 398 and 1042, M. C. for the value of work done on a by-road, a justice of the peace residing in a municipality other than the one where the defendant resides, has no jurisdiction, if it does not appear by the record that there is no justice of the peace in the municipality where the defendant resides.—**LAMBERT & LAPALISSE, VI Recue légale, 65.**

any action brought to recover the value of the works performed or the materials furnished by either the road inspector or the corporation, and the twenty per cent. in addition thereto, together with interest and costs, is assimilated to municipal taxes.

403. In every action brought, either by the road inspector or by the corporation to recover the value of such works or materials, the evidence of the road inspector is sufficient proof, if it is not contradicted by a witness worthy of belief, in the case where he establishes :

1. That the required formalities have been observed ;
2. That the works have been executed, and the materials furnished ;
3. That the amount claimed is the real value of such works or materials ;
4. That the defendant is a person legally liable for the same.

404. The road inspector must, between the first and fifteenth days of June and October, in each year, and moreover whenever he is required by the council or mayor :

1. Go over and inspect the municipal ferries, roads, side-walks and bridges in his division ;
2. Mark down the state in which he finds such ferries, roads, side-walks and bridges, and the works in connection therewith ;
3. Make note of any person who has neglected to fulfil his obligations, and prosecute him in the name of the corporation ;
4. Make a report in writing containing the substance of the notes he has taken and the information he has obtained since his last report, on every public work under his superintendence, and further stating

the arrears of labor unperformed or of materials unfurnished, the value in money of such labor or materials, and the penalties and costs remaining unpaid, specifying the lands in respect of which the same are due, and the owners or occupants of such lands, if known.

405. (*As amended by 41-42 Vic., c. 10, s. 19.*) When a municipal bridge or one forming part of a municipal road, or a bridge over a water-course is destroyed or broken, or whenever the use thereof becomes dangerous, or whenever the use of a municipal road becomes difficult or dangerous, the mayor of the local municipality in which such bridge or such road is situated, either in whole or in part, whether such work is a local or a county work, may in cases of urgent necessity, authorize the road inspector or any other person to reconstruct or repair the same, or to make a safe temporary bridge or crossing, at the expense of the local corporation.

The cost of such work is recoverable by the local corporation, from the persons or corporation who are liable therefor in virtue of the law, by-laws or *procès-verbaux*, in the manner laid down for the recovery of penalties imposed by this code; and the amount of the judgment with interest and costs is assimilated to municipal taxes.

SECTION IV.

Of Rural Inspectors.

406. Rural inspectors are bound to do whatever is required of them, in virtue of the provisions of this code, respecting public nuisances, clearances, boundary ditches or boundary fences.

They are bound to superintend all works of construction, improvement or repair, ordered upon local or county municipal water-courses, situated within

the limits of their divisions, and to take care that such works be performed according to the provisions of the law, *procès-verbaux*, or by-laws which govern them, unless they are exempted from so doing by an order of the council or of the board of delegates under whose direction such works are being executed, or unless a special officer entrusted with the superintendence of such works has been appointed.

They are also bound within the limits of the division for which they have been appointed, to perform all the other duties which are imposed upon them by the provisions of this code or by municipal by-laws.

407. (*As amended by 39 Vic., c. 29, s. 6.*) The rules laid down in articles 378, 379, 380, 380a and 381, regarding road inspectors, apply also *mutatis, mutandis*, to rural inspectors.

Articles 382, 383 and 384, are also applicable to such officers, when joint labor must be done upon water-courses.

408. The provisions of articles 397, 398, 399, 400, 401, 402 and 403, respecting the execution of work prescribed on municipal roads, side-walks and bridges, by the road inspector or by the council in the name of the corporation, upon the default of the persons liable for such work, and respecting the recovery of the value of such work, apply with similar effect to work prescribed either under the provisions of this section, or prescribed on municipal water-courses, for the execution of such works by the rural inspector of the division, or by council in the name of the corporation, upon the default of the persons liable, and to the recovery of the value of work executed by such inspector or council.

409. Whenever the services of a rural inspector are required, under the provisions of the four following paragraphs of this section, in any locality situate partly within the limits of the jurisdiction of one rural

inspector and partly within the limits of the jurisdiction of another, one or other of such inspectors may be required to act.

410. Every rural inspector, when required to act under the provisions of the four following paragraphs of this section, is entitled to ten cents for every hour employed in visiting the localities as well as in managing and superintending the works, if he does not perform them himself.

He has also a right to be repaid any necessary outlay and costs incurred by him for notices, or other papers requisite made under the same provisions.

Such costs are paid by the person whom the rural inspector finds in default. If no person is in default, they are paid by the party who demands the services of the municipal officer. In case of common or joint works, they are paid by all the parties interested, if they are all in default.

In case of refusal or contestation, they are recovered in the same manner and with the same rights and privileges as the value of municipal works performed by the road inspector.

411. The rural inspector whose services have been required by the municipal council, or for the benefit of the corporation, is not entitled to any fee from the latter ; the council may, nevertheless, allow him one.

412. Every special notice or order given by a rural inspector, may be given either verbally or in writing, saving in cases otherwise provided for.

Every order given by a rural inspector is given by special notice, subject to the provisions of article 228.

413. The rural inspector and any person interested may require from any possessor, tenant or occupant of any land, in the same manner as from the owner of such land, the fulfilment of every obligation imposed

upon such owner in regard to clearings, boundary ditches, boundary fences or water-courses, saving the recourse of such possessor, tenant, or occupant, against the proprietor, if any there be.

414. The rural inspector must, on being authorized for such purpose by the mayor or the secretary-treasurer of the local council, make or cause to be made, at the expense of the corporation, in the snow or ice, trenches and all other works which are required to prevent floods and to facilitate the water in running off.

§ I.

Public Nuisances.

415. Whenever any filth or dead animal has been deposited upon any property whatever or in a water-course, stream or river, it is the duty of the rural inspector of the division, within twenty-four hours after he has received a special notice, either written or verbal, so to do, to have such filth or dead animal removed by the person who deposited it.

If the person who has deposited such filth or dead animal is unknown, it is the duty of the rural inspector, within the same delay, to cause the same to be removed at the expense of the corporation.

416. Whoever deposits or causes to be deposited, any filth or dead animal upon any of the localities mentioned in the preceding article, incurs over and above any damages occasioned thereby, the penalties prescribed by article 391.

§ II.

Clearances.

417. The rural inspector, on either the written or verbal requisition of any owner or occupant of land in a state of cultivation, who requires a clearance to be made by his neighbor in virtue of article 531 of the

civil code, must attend at the place where such clearance is required, after giving special notice of eight days in writing to the parties interested.

After an examination of the locality, and on proof that such clearance is necessary and has been demanded by special notice in writing, served before the first day of the preceding month of December, he enjoins by written order that within the thirty days next following, all shrubs which are of a nature to harm the cultivated land within an extent of fifteen feet in depth along the whole line of separation of such lands, and all trees which are found within such extent, casting a shade upon such cultivated land, saving those excepted by law, or reserved for the embellishment of the property be cut down.

418. Whoever refuses or neglects to obey the orders of the rural inspector relative to the clearance, incurs, without prejudice to the execution of such orders, a penalty not exceeding two dollars for each arpent in length of such clearance, for the first year, and for every subsequent year a penalty equal to double that of the preceding year, over and above all damages occasioned to the cultivated land.

419. The damages resulting from the refusal or neglect to make the clearance as required by the rural inspector, are established by three experts appointed as follows: one by each of the interested parties, and the third by the two experts so appointed.

If one of the parties refuses to appoint an expert, he is appointed by a justice of the peace on the demand of the other party.

§ III.

Boundary Ditches.

420. The rural inspector, upon the written or verbal application of any owner or occupant who demands the opening up of a boundary ditch between his land

and that of his neighbor, must visit the locality of such proposed boundary ditch, where, after an examination of the place, and a hearing of the parties interested who have received three days' special notice thereof, he orders the performance of any works which he deems necessary, and determines how and by whom they must be executed.

421. The rural inspector, on the written or verbal application of one of the neighbors who complains of the insufficiency or bad condition of the common or joint boundary ditch or of the part thereof for which his neighbor is liable, must if it is necessary, order the person in default, to deepen, cleanse and repair such ditch or part of a ditch, or to do his share of such work within a fixed delay. Such delay must not exceed the time absolutely necessary to perform such work.

In case the work be not performed within such delay, the inspector may authorize the complainant to do the work himself, the cost thereof to be recovered in the same manner as penalties under this code.

422. He may, at the same time, order the party complaining to deepen, cleanse or repair that part of the boundary ditch for which he is liable, within the same delay, if he finds such part insufficient or in bad condition.

423. Whoever refuses or neglects to comply with the orders of the rural inspector given in virtue of the preceding provisions of this paragraph, incurs, over and above the damages resulting from the defect or insufficiency of his ditches, and without prejudice to the execution of such orders, a penalty not exceeding one dollar for every arpent in length of such ditch, which he has to make, every fraction of an arpent being counted as an entire arpent.

424. Whoever obstructs or allows any boundary

ditch to be obstructed in any manner whatsoever, is liable to a penalty not exceeding one dollar for every day such ditch is so obstructed.

§ IV..

Boundary Fences.

425. The rural inspector of the division, on the written or verbal application of any owner or occupant who demands the construction or repair, or any works necessary for the preservation of a boundary fence between his land and that of his neighbor, in virtue of article 505 of the civil code, must visit the boundary in question, where after having heard the interested parties, duly notified thereof by a special notice of three days, and examined the works required, he orders any party in default, whether complainant or not, to construct or repair his boundary fence so that it be good and firm, within the delay determined by such inspector. Such delay must be as short as possible.

425a. (*Added by 36 Vic., c. 21, s. 11, and as amended by 41 Vic., c. 18, s. 15.*) In the event of the works not being executed within such delay, the rural inspector may authorize either the complainant himself or any other person to execute the same, or to cause the same to be executed, and the cost thereof is assimilated to municipal taxes if it is not recovered in the same manner as penalties under the authority of this code.

426. The rural inspector cannot order the making, in a rural municipality, of a new fence, or the repairing of an old one when so dilapidated that the cost of repairing it would be equal to that of a new one, unless the party bound to do such work has received special notice in writing, to such effect, before the first day of the preceding month of December.

427. Article 423 relative to boundary ditches, applies also to persons liable for boundary fences.

SECTION V.

Of Pound-Keepers.

428. Pound-keepers are bound to receive and retain in safe keeping, animals found straying on any beach, flat, road or public place, or any land other than that of their owners, and impounded by the rural inspector or by any other person who finds them, until such animals are reclaimed by their owners, or sold at auction under the provisions of this section (1).

429. Pound-keepers are bound to provide animals impounded under their charge, with proper food in sufficient quantities, and to take proper care of them under a penalty not exceeding one dollar for each day during which they neglect so to do, without prejudice to all damages occasioned by such neglect.

Such penalty belongs to the owner of the animal, and is recoverable by him only.

430. Whenever any animal is impounded, it is the duty of the pound-keeper, under a penalty of not less than two, nor more than ten dollars, for each act of neglect on his part, to give without delay special notice, either written or verbal, to the owner of the animal impounded, if he is known and domiciled in the municipality.

431. If the animal is not reclaimed within the twenty-four hours which follow such special notice, or if the owner thereof is unknown or does not reside

(1) *HELD:* — That experts named to ascertain the damages caused by animals straying and not impounded, have not powers to oblige the parties to submit to their decision, unless there has been a compromise or agreement on the part of the contesting parties to submit or acquiesce thereto; that *experts* have such authority only under the conditions mentioned in art. 428 and following of the M. C., that is when animals are impounded. Otherwise these *experts* have authority only as witnesses. *LA-CÔSSE & DELORME, VI Revue Légale, 210.*

in the municipality, the pound-keeper must, under the same penalty, give public notice, in which are set forth the species and color of the animal, the place where it was found straying, and the name of the place where it is impounded, and he must further announce its sale by auction on a day fixed, unless such animal is reclaimed by its owner upon payment of all expenses, penalties, fees and costs incurred, as well as such damages as may be agreed upon, or as are determined according to article 442.

432. The owner of any animal impounded may demand its delivery, between the hours of seven o'clock in the morning and seven o'clock in the evening of any day, upon payment of legal tender to the pound-keeper of the expenses, fines, fees and costs incurred respecting such animal, and such damages as may be agreed upon, or are determined according to article 442.

If the pound-keeper refuses or neglects to deliver the animal kept in pound after such payment or tender has been made, he incurs a fine of two dollars for every day he thereafter detains such animal, in addition to the damages occasioned by such refusal.

433. If on the day fixed for the sale, the animal impounded has not been reclaimed, and if the damages fixed together with the penalties, fees, expenses, and costs incurred have not been paid, such animal must be publicly sold by the pound-keeper to the highest and last bidder.

434. If on the day fixed for the sale, there are no bidders, the sale is adjourned to another day, and a public notice thereof is given without delay.

435. The price of adjudication must be instantly paid and before delivery, in default whereof the animal is again put up for sale.

436. The proceeds of the sale are employed in paying what is due in consequence of the impounding of the animal; and the balance is placed without

delay in the hands of the secretary-treasurer of the local council, and, if not reclaimed within a year by the owner of the animal sold, belongs to the corporation.

437. If the sale has not realized a sufficient sum, the owner of the animal is liable to make up the balance.

438. The owner of any animal so sold, if he does not reside in the municipality, or if his place of business is not situated therein, may reclaim his animal from the purchaser, within one month from the day of sale, by paying him ten per cent on the purchase-money, over and above all disbursements for purchase, keep and other charge.

439. Whoever takes and conveys away any animal impounded, without permission from the pound-keeper, incurs a penalty equal to the sum claimed on account of such animal, and in addition, a fine of two dollars, or imprisonment not exceeding eight days or both.

440. Penalties imposed on the owners of animals found straying are for the first offence as follows :

For each stallion not under one year.....	\$6 00
do bull, boar, or ram.....	2 00
do gelding, colt, filly, mare, ox, cow, calf, heifer, or hog ringed.....	0 25
do hog not ringed, or goat.....	1 00
do sheep.....	0 10
do goose, duck, turkey or other poultry.	0 05

For each subsequent offence the penalty is double that imposed in the last instance.

Such penalties may be paid to the pound-keeper before suit brought (1).

(1) **Held** :—That a suit for the recovery of fines incurred under act. 440 M. C. and instituted by a complainant under his own name, cannot be maintained.—*LAHAIE & McMARTIN, VII Revue Legale, 185.*

441. The penalties mentioned in the preceding article may be paid to the pound-keeper before suit brought for their recovery.

442. In case of contestation, the damages occasioned by animals found straying, are ascertained and determined by three experts appointed as follows : one by the complainant, one by the owner of the animal, and the third by the two experts already appointed.

If the complainant or the owner of the animal is not present, his expert is appointed by the pound-keeper. If one of the parties, or in his absence, the pound-keeper, refuse to appoint his expert, he is appointed by a justice of the peace.

These experts must be appointed summarily and without delay, on the demand of the owner of the animal or of the complainant.

The experts at once proceed to view the damages, and to render their judgment, which is final and conclusive.

The amount of damages determined by them is recoverable, in case of refusal to pay the same, in the same manner as penalties imposed under this code (1).

443. No one is entitled to compensation for damages caused upon his land by stray animals if such damages are occasioned by the absence or defect of his boundary fences (2).

(1) **HELD** :—1o That it is only on the express permission of the law that damages and fine can be demanded by one and same action ;—2o that chap. 26, C. C. L. C., granting this faculty, one can under this statute unite the two means of action ;—3o that the Municipal Code has abrogated chap. 26 only as far as it concerns corporations acting under that code ;—4o that it is only when animals are impounded by pound-keepers that this matter concerns the corporations acting under this code ;—5o that in all other cases the damages and the fine for impounded animals can be recovered, under chap. 26 by one and same action. *DAoust & PROULX, VII Revue Légale, 317.*

(2) **HELD** :—That a defendant, to take advantage of art. 443 M. C. and free himself of the damages caused by his animals, must not only prove the absence or defect of the fences of the

444. It is not necessary that animals found straying be impounded to give rise to a right of action against the persons permitting such animals to stray, for the penalty and damages occasioned.

445. The occupant of any land is answerable for any animal he receives to pasture thereon, as if such animal were his own property.

446. Persons in possession of animals found straying or impounded, have the same rights and privileges and are subject to the same obligations, and liable to the same penalties as the owners of such animals.

447. Any owner or occupant of land, or any member of his family, may take and impound on his own premises, any animal found straying in the municipality, on any beach, flat, road, public place, or upon any land, with the same powers and formalities, and under the same obligations and penalties as pound-keepers appointed by the council.

In cases which come under the provisions of this article, the animal so impounded cannot be sold except by the pound-keeper of the rural division, if there be one, or if there be no pound-keeper or if he neglect to do so, then by the rural inspector of the division, without, however, in any manner, rendering the corporation, whose officers they are, responsible.

448. Penalties recovered under the provisions of this title, except in the case mentioned in article 429, are divided according to the rule prescribed in article 1048.

plaintiff, but also that it is from such absence or defect that the damages have been occasioned;—that it is the duty of the defendant to prove that the plaintiff is bound to fence the spot through which the animals have gone out;—that, when between neighbors, there is a spot which nobody is obliged to fence, both are responsible of the exit of these animals at this spot.—LACOSSE & DELORME, VI *Revue Légale*, 210.

BOOK SECOND.

POWERS OF MUNICIPAL COUNCILS.

Preliminary Provisions.

449. In addition to the powers which are conferred upon them by the provisions of this book, municipal councils may further exercise those conferred upon them by other provisions of this code, or of any other law not inconsistent with this code.

450. By-laws, resolutions, and other municipal ordinances, must be passed by the council in session.

451. Municipal councils, in exercising their powers, must comply with all the formalities prescribed by the by-laws in force in the municipality, in addition to the formalities required by the provisions of this code.

452. The powers specially conferred on any municipal council by the provisions of this code, can be exercised by such council only.

Nevertheless, any council which, under the municipal code, no longer possesses the powers which were conferred upon it by acts antecedent to the coming into force of this code, may repeal the acts which it shall have passed under such powers.

TITLE FIRST.

MUNICIPAL BY-LAWS.

CHAPTER FIRST.

GENERAL PROVISIONS.

453. The by-laws of municipal councils must not contain any provisions inconsistent with those of this code or of any other law.

454. Municipal by-laws come into force and effect as law, if not otherwise prescribed in the provisions contained in such by-laws, fifteen days after their promulgation, except always in the case of appeal to the county council against the passing of a by-law by the council of a rural municipality, and in any other case otherwise provided for by the provisions of this code.

455. Municipal by-laws which, in consequence of certain provisions of their own or of this code, can only come into force at some stated period must be promulgated at least fifteen days before such period.

456. Every by-law passed by the council of a rural municipality and amended or confirmed in appeal by the county council, comes into force fifteen days after its promulgation or publication, in virtue of article 495.

457. The original of every municipal by-law, to be authentic, must be signed either by the head of the corporation, or by the person presiding at the council at the time such by-law was passed, and by the secretary-treasurer.

If it has been necessary to submit the by-law for the approval of the municipal electors or of the lieutenant-governor in council, before it can come into force, and it has received one or other of such approvals, a certificate under the signature of the head of the council and of the secretary-treasurer thereof, certifying to each of these facts, must accompany and form part of the original of such by-law.

458. The secretary-treasurer of the county council must transmit a certified copy of any by-law passed by such council, to the office of the council of each local municipality within the limits of which such by-law is in force.

459. One or more of the subjects mentioned in

the provisions of this title may be provided for in one and the same by-law, provided that each of such subjects is within the jurisdiction of the council which passes such by-law.

In the case of several subjects, provided for in one and the same by-law, requiring the approval of the municipal electors or of the lieutenant-governor in council, one approval given either by the municipal electors or by the lieutenant-governor, or by both if necessary, suffices for the entire by-law.

460. (*As amended by 36 Vic., c. 21, s. 12.*) The council may also exercise by resolution the powers conferred upon it by articles 471, 474, 475, 476, 477, 478, 484, 485, 486, 487, 488, 499, 503, 504, 505, 506, 518, 519, 526, 527, 541, 543, 555, 556, 586, 587, 588, 589, 590, 591, 608, 625, and 663.

461. Municipal by-laws are binding until they have been annulled by the magistrate's court, or by the circuit court for the county or district, saving all recourse for damage against the corporation as prescribed by the rule laid down in articles 706 and 707.

462. Municipal by-laws remain in force until they are amended, repealed or annulled by some competent authority, or until the time for which they have been made has expired.

463. Municipal by-laws which were submitted to the approval of the municipal electors, or of the lieutenant-governor in council, or of both, before they came into force and effect, can only be amended or annulled by another by-law approved of in the same manner.

CHAPTER SECOND.

BY-LAWS WITHIN THE JURISDICTION OF ALL MUNICIPAL COUNCILS.

464. Every municipal council has a right to make, amend or repeal by-laws which refer to itself, its offi-

cers, or the municipality, upon any of the subjects mentioned in this chapter :—

SECTION I.

Government of the Council and its Officers.

465. To compel members of the council to attend the sittings of the council or the committees thereof, and to perform their duties thereat.

466. To regulate the manner in which debates are to be carried on and order and decorum preserved during the sittings of the council or of the committees.

467. To fix the number of days the ordinary sessions may last.

468. To order that the municipal by-laws, before the passing thereof, be read two or three times, either on the same or on different days.

469. To appoint an officer, whose duty it shall be to serve the special notices required by the provisions of this code or of municipal by-laws, and to oblige such officer to take an oath of office.

The appointment of any such officer does not render other municipal officers incapable of making the services which they are authorized to make by this code.

470. To define the duties, not defined by this code, of the officers of the council ; and to impose penalties in accordance with article 508, for negligence or omission in the performance of their duties in cases in which penalties have not been fixed by this code for any such act of neglect or omission.

471. To establish a tariff of fees payable to municipal officers for their services, whether by the persons who have required such services, by those in whose interest they were rendered, or by the corporation, in

the cases where the fees for such services have not been determined by the provisions of this code.

Every tariff made in virtue of this article must be posted up in a conspicuous place in the office of the council.

472. To fix the remuneration of municipal officers by the council in addition to the fees or penalties which they are entitled to receive under the authority of this code, of any other act, or of any municipal by-laws.

473. To determine upon what days of the week, the office of the council is to be kept open between nine o'clock in the forenoon, and four o'clock in the afternoon.

In default of the council determining such office days in virtue of the preceding provision, the office of the council must be kept open every juridical day, during such hours.

474. (*As amended by 36 Vict., c. 21, s. 13.*) To order the publication, in one or more newspapers, of the notices of meeting of the council, without prejudice to the provisions of articles 126, 139, 260 and 290.

SECTION II.

Public Works of the Municipality.

475. To order and regulate, when in the interest of the inhabitants of the municipality, or of a considerable portion thereof, the construction, opening up, widening, deepening, altering, repairing, or maintaining at the expense of the corporation, of all ditches, water-courses, sewers, embankments and fences.

Every by-law made in virtue of this article, concerning a water-course, governed by an act of agreement, or by a *procès-verbal*, has the effect of subrogat-

ing the corporation in the place and stead of the persons bound to work at such water-course, in so far as the obligation to do such works is concerned.

476. To authorize road inspectors to permit the execution of certain works, on municipal roads, fords, ferries, sidewalks or bridges, under the control of the council, which might have the effect of obstructing, impeding, inconveniencing and rendering passage on such public works dangerous; and in every such case, the council must determine the conditions under which such permits may be granted.

SECTION III.

Aid in the construction, improvement and maintenance of Public Works or Undertakings not belonging to the Corporation.

477. (As amended by 45 Vic., c. 35, s. 12.) To assist by money, granted or lent, in the construction of any macadamized road, or the repair or maintenance of any road leading to the municipality, or of any bridge or public work, under the direction of the corporation of any other municipality.

478. To aid in opening up and improving the colonization roads declared by the lieutenant-governor in council to be colonization roads of the second or third class, in which the corporation has been held to be interested, in virtue of any law concerning colonization roads.

479. (As amended by 41-42 Vic., c. 10, s. 20.) To aid in the construction of any bridge, causeway, pier, wharf, slide, macadamized or paved road, iron or wooden railroad, or other public work, situated in whole or in part within the municipality or its vicinity, to be undertaken and built by any incorporated company, or by the provincial government, or by any person or firm of persons.

1. By taking and subscribing for shares in any company formed for such purpose (1) ;

2. By giving or lending money or debentures to such company, or to the Provincial Government, or to any person or firm of persons who shall undertake the establishment of any of the public works above mentioned.

3. By guaranteeing by endorsation or otherwise any sum of money borrowed by such company or by the government, or by such person or firm of persons.

480. (*As replaced by 45 Vic., c. 36, s. 10.*) To aid in the establishment of manufactories and the construction of electric telegraph lines :

1. By subscribing for or holding stock in any company formed for such purposes ;

2. By giving or lending money or debentures to such company, or to any person or firm of persons, who shall undertake the establishment of a manufactory in the municipality of the construction of electric telegraph lines.

481. Every by-law passed in virtue of the two preceding articles, before coming into force and effect, must be approved by the electors of the municipality and by the lieutenant-governor in council.

482. If the price of the shares fixed upon by a by-law of the council passed in virtue of articles 479 and 480 is not in hand, none of such shares can be taken or subscribed for in execution of such by-law, by the head of the council or other person thereunto authorized, before the council has ordered an issue of debentures or a loan to be contracted sufficient to cover the amount of shares to be subscribed for.

483. By-laws made in virtue of articles 477, 479 and 480, may determine the conditions under which assistance or subscription for shares is authorized.

(1) As doubts may exist respecting the nature and extent of the responsibility of municipal corporations as share-holders in railway companies, it is declared and enacted as follows ; the responsibility of municipal corporations and of incorporated companies as share-holders in railway companies, like that of individuals, is and has always been limited to the amount which has been lawfully subscribed by them. (35 Vic., c. 8, s. 14.)

SECTION IV.

Aid to Colonization, Agriculture, Horticulture, Arts and Sciences.

484. (As amended by 35 Vic., c. 8, s. 13). To aid in every suitable way, colonization within the province; and agriculture, horticulture, arts and sciences, within the municipality or within the limits of such agricultural society, in which such municipality is situated.

484a. (Added by 39 Vic., c. 29, s. 7). To establish and manage alms houses, or other establishments of refuge for the support of the necessitous; and to aid charitable institutions established in the municipality.

SECTION V.*Acquisition of Property and Public Works.*

485. To acquire, gratuitously or for a consideration, either in whole or in part, all beach lots, bridges, toll-bridges, roads, wooden railways, macadamized roads, piers, wharves, dykes, embankments, or other public works, a part at least whereof is situate within the limits of the municipality, together with the lands and dependencies required for the use or management of the same.

486. To acquire, for the use or in the interest of the corporation, either gratuitously or for a consideration, any other land situated either within or without the limits of the municipality.

487. To acquire, either gratuitously or for a consideration, from the government of the province or from the government of Canada, any public roads, wharves, canals, harbours, bridges or public buildings, whether within or without the limits of the municipality, and which such government finds desirable to place under the control of the municipal corporation.

488. (As amended by 41-42 Vic., c. 10, s. 21.) To provide for the lease, purchase or erection of any building which the corporation requires.

488a. (*Added by 45 Vic., c. 35, s. 13.*) To provide for the establishment, protection and management of water works, public wells or reservoirs, and to prevent public water from being soiled or wastefully used.

SECTION VI.

Direct Taxation.

489. To levy by direct taxation on all the taxable property or only on all the taxable real estate of the municipality, any sum of money required to defray the expenses of administration, or for any special purpose whatever within the scope of the functions of the council. (1)

490. (*As amended by 36 Vic., c. 21, s. 14.*) To levy by means of direct taxation on all the taxable property or only on the taxable real estate, belonging to those persons who, in the opinion of the council, are inter-

(1) **HELD** :—That parties who have paid to a municipal corporation a tax imposed by an illegal by-law, have right to be reimbursed thereof even before the by-law has been declared null and without being obliged previously to sue to have the by-law declared null.—**CORPORATION OF RIMOUSKI & RINGUET**, Court of Appeals,—Quebec, 4th march, 1878.

HELD :—That the by-law of a municipal council ordering to levy a sum of money "to pay the debts of the corporation and the expenses of the municipal council for the year 1869," without stating in a precise and determined manner such expenses and debts, is contrary to the letter and to the spirit of the municipal law, and must be declared null and illegal ;—that every rate-payer who has paid taxes under such a by-law may, when invoking its nullity, claim them back ;—that if the collection roll enters as the taxes of a rate-payer an amount higher than what it ought to be, under the by-law imposing the same, such roll is null as regards this rate-payer and only as to the over plus.—**DUBOIS vs. CORPORATION DU VILLAGE D'ACTON VALE**. II *Revue Légale*, 565.

The Respondents had paid to the Appellant taxes which the latter had no right to levy and which it had not levied according to the terms of the by-law. They have sued to be reimbursed and have obtained judgment. Judgment confirmed.—**LA CORPORATION DE LA VILLE DE ST. JEAN & BERTRAND**, Court of Appeals, Montreal, 17th June, 1875.

ested in any public work under the control of the corporation, or belonging to those who benefit by such work all sums of money required for the construction and maintenance of such work.

491. To levy, by means of direct taxation, money required for any purpose within the scope of the functions of the council, on all taxable property, or only on all taxable real estate comprised within a part of the municipality, on petition by the majority of the rate-payers liable to pay such tax, to the extent and under the conditions set forth in such petition.

The county council only exercises the power conferred by this article when the territory, by the majority of the rate-payers of which such petition was presented, is situated in two or more local municipalities of the county, or when the money to be raised and levied is to be employed on some public work which falls under its jurisdiction.

SECTION VII.

Loans and Issue of Debentures.

492. To borrow money in sufficient sums for any purposes within the jurisdiction of the council. (1)

(1) **HELD** :—That where the power of making negotiable promissory notes, or accepting bills of exchange, is not expressly given to a municipal corporation, it cannot be implied as necessary to accomplish any of the purposes for which such a corporation is created.

2. That a promissory note made by a municipal corporation, to pay the amount of a judgment against the municipality, is null, the legislature having empowered municipalities to raise money in a different manner, Superior Court, Quebec, in review.—**PACAUD vs. LA CORPORATION DE HALIFAX SUD, XVII L. C. Reports, 56.**

HELD :—By judge Rainville (S. C., Montreal, 2th Dec., 1878. **MARTIN vs. CITY OF HULL**) that municipal corporations have not the power of executing promissory notes or of accepting bills of exchange.

HELD :—By judge Mackay (S. C., Montreal, 20th Dec. 1878.—**LEDoux vs. PICOTTE AND THE MUNICIPALITY OF THE VILLAGE OF ST.**

493. To issue debentures for any amount deemed requisite to obtain money for any purposes within the jurisdiction of the council.

494. Every municipal by-law, which orders or authorizes a loan or an issue of debentures, must declare the purposes to which the sum so borrowed must be applied, and may contain all provisions deemed requisite to ensure the proper application of the money and the attainment of the end set forth in the by-law.

495. (*As amended by 39 Vic., c. 29, s. 8*). No debentures can be issued, and no loan can be contracted, unless the by-law which authorizes the issue of such debenture or the contracting of such loan, imposes upon all taxable property liable for the payment of such loan or debentures, an annual tax sufficient for the payment of the yearly interest thereon, and, at least, two per cent. over and above such interest, as a sinking fund, until the extinction of such debt. The apportionment of the moneys to be levied for the payment of the interest and the sinking fund annually shall be based on the roll in force at the time of such apportionment, without prejudice to the rights of debenture holders.

496. Every by-law, which orders or authorizes a loan or an issue of debentures, must, before coming into force and effect, be approved by the electors of the municipality, when the taxable property or the

LOUIS OF THE MILE END, T. S.) that promissory notes signed by the mayor and secretary-treasurer of a municipality, according to a resolution authorizing them so to do is valid and binds the corporation.

HELD :—That a municipal corporation will be condemned to pay the amount of a promissory note signed by the mayor and secretary-treasurer in the name of the corporation, where it is neither alleged nor proved that the note was given without lawful consideration.—*THE CORPORATION OF THE TOWNSHIP OF GRANTHAM & COUTURE et al.*, XXIV L. C. J., 105.

taxable real estate of the whole municipality is subject for the payment of such loans or debentures, and in all cases by the lieutenant-governor in council.

497. If only the taxable real estate of the municipality is liable for the payment of such loan or debentures, the municipal electors who are the proprietors of such real estate, are alone entitled to vote in approval or disapproval of such by-law.

498. It is the duty of the secretary-treasurer of the council which has passed any such by-law, to forward to the lieutenant-governor, together with a copy of the by-law submitted for approval, a statement showing the total value of taxable property liable under such by-law, and all the debts and liabilities of the corporation.

Such statement must be attested under the special oath of the secretary-treasurer.

SECTION VIII.

Administration of Corporation Funds.

499. (*As amended by 40 Vic., c. 18, s. 1 ; by 41 Vic., c. 18, s. 16 and by 41-42 Vic., c. 10, s. 22*). To deposit at interest in a chartered bank, or to invest in the public funds of Canada, or of this province, or on first hypothec, any moneys belonging to the corporation ; but when these sums are intended to form a sinking fund, for the redemption of debentures issued, the council may, instead of depositing the same in an incorporated bank, redeem its own debentures.

Any municipal corporation in this province which had any agreement with any incorporated bank or other institution, for depositing sinking fund in virtue of any resolution or by-law of such corporation, or otherwise to redeem debentures issued by such corporation in virtue of any such by-law previous to the passing of the above mentioned act, (*viz, the 40 Vic.,*

c. 18, passed on 28 December 1876) may withdraw any money deposited in virtue of the same, together with the interest thereon accrued, with the consent of such bank or institution, provided the money be applied forthwith to purchase the debentures issued for which such sinking fund is payable.

Any such bank in which such sinking fund may have been deposited, may pay over all such money, as well as the interest thereon accrued, to such corporation on receiving a resolution of the council of such municipality to that effect.

500. The secretary-treasurer is always authorized, even in the absence of any by-law or resolution to that effect, to deposit temporarily in a duly chartered bank, all moneys proceeding from municipal taxes or dues or belonging to the corporation, and to leave such moneys at deposit, until applied to the purposes for which they were levied, or until disposed of by the council.

He is bound so to do, when required by the council or by the head of the council.

501. All sums of money not especially appropriated form part of the general fund of the corporation.

Whenever any sum levied exceeds in amount the sum required by the council to meet the liabilities for which such sum was raised, the surplus belongs to the corporation and falls into the general fund thereof.

502. All sums of money forming part of the general fund of the corporation, may be employed for any purpose within the scope of the functions of the council.

SECTION IX.

Miscellaneous Provisions.

503. To establish and manage a sinking fund for the purpose of liquidating any municipal debt.

504. To have a census taken of the inhabitants of the municipality, or of a portion of the municipality.

505. To give rewards for the destruction of wild animals; and to determine the conditions upon which such rewards are given.

506. To offer and give rewards for information which may lead to the discovery and arrest of persons who have committed criminal offences.

507. To authorize the officers of the council to visit and examine all property, whether movable or immovable, as well as the interior or exterior of every house, building or other edifice, to ascertain whether or not the by-laws of the council are carried out.

To oblige owners or occupants of such properties, buildings and edifices to receive the officers of the council, and to answer truly all questions which are put to them relative to the carrying out of such municipality by-law.

508. (*As amended by 41 Vic., c. 18, s. 17*). To impose for each violation of any by-law of the council, a penalty, in the shape of a fine not exceeding twenty dollars, or imprisonment not exceeding thirty days.

Penalties imposed for the violation of municipal by-laws cannot be inflicted by the court unless they are fully described and set forth in the by-laws respecting them.

509. Every council may also, in the interest of the inhabitants of the municipality, make, amend or repeal any other by-law, for a purely local and municipal object and not specially provided for by this code.

CHAPTER THIRD.

BY-LAWS SPECIALLY WRITTEN WITHIN THE JURISDICTION
OF COUNTY COUNCILS.

510. Every county council may also make, amend or repeal by-laws for any of the objects mentioned in this chapter :—

SECTION I.

Chief-Place.

511. To fix or change the chief-place of the county.

Nevertheless the chief-place of the county can only be changed by a by-law passed with the concurrence of two-thirds of the members of the council in office.

After a registry office has been established therein, according to the provisions of article 2158 of the civil code, or public building for the use of such council has been provided, or is in course of construction, the chief-place can only be changed by the provincial legislature.

SECTION II.

Circuit Court and Registry Office of the County.

512. To determine the place where the circuit court for the county is to be held in conformity with the provisions of chapter seventy-nine of the consolidated statutes for Lower Canada.

513. To provide for the construction and maintenance of a building designed for the circuit court at the place appointed for such purpose.

514. To provide for the construction and maintenance of a registry office either apart from or forming part of any court house in the county, with a metal safe, or fire-proof vault for the preservation of the books, deeds and papers of the office.

515. (*As amended by 41 Vic., c. 18, s. 18*). Every county corporation is bound to provide and keep constantly in perfect repair a suitable and ample metal safe or fire-proof vault in the registry office of the county or registration division, no matter where the building may be situated in which such registration office is established or removed to.

Every corporation which omits or neglects to comply with the provisions of this article is liable to the crown in a penalty of two hundred dollars, recoverable as a debt due to Her Majesty, and is further responsible for all damages occasioned by such omission or neglect.

The corporation of any city or town municipality, comprised within the same county for registration purposes, is obliged to contribute to the costs incurred by the corporation of such county under the present article, in the same proportion as the other local corporations of the county, according however to the total amount of the valuation of its taxable property; and the county corporation may determine its share and recover the amount thereof in the same manner as from any other local corporation.

If the council of such city or town neglects or refuses to produce, at a suitable time, an authentic certificate of the valuation of its taxable property, the county council may determine the amount of its share as it may deem proper.

516. If it is established that a registry office is without a vault or safe, or that such vault or safe is defective, the lieutenant-governor may order the recovery of such penalty from the county corporation in default, and may cause a proper safe to be placed, or a proper vault to be built in such registry office, or the existing safe or vault to be renewed or repaired at the cost of the province; and the sum so expended may be recovered from the corporation as a debt due to the crown.

517. If there are several county municipalities in the same registration division, the penalty, expenses and costs are due by all the county corporations, and may be recovered from any one of them, saving its recourse against the others for their proportions.

518. To ensure the copying of all deeds which must be deposited in the registry office according to the ninety-fourth section of chapter thirty-seven of the consolidated statutes for Lower Canada.

SECTION III.

Roads and Bridges.

519. To cause mile posts and guide posts to be set up on municipal public roads, or on those belonging to trustees of turnpike roads or others, to show the distance from the principal places to which such roads lead, at the expense of the corporations of local municipalities in which such mile posts are placed.

520. To place toll-bars on the bridges under the control of the corporation of the county; and to levy toll on the persons, animals and vehicles which pass over such bridges.

The council may by such by-law or by any subsequent by-law, exempt from tolls such persons as it may deem desirable.

By-laws made under this article have no force and effect, until they have been approved by the lieutenant-governor in council.

521. (*As amended by 45 Vic., c. 35, s. 14.*) To prohibit the use by persons living in the municipality of any winter vehicles on municipal roads or on roads belonging to trustees of turnpike roads or others, unless the horse or horses or other beasts of draught, when they are not harnessed abreast, be harnessed in such a manner that the left runner of the vehicle

shall run in the tracks of such horse or horses or other beasts of draught.

522. To prevent, on the opposition of any interested party, the construction of macadamized or planked roads by road companies, according to the provisions of chapter seventy of the consolidated statutes for Lower Canada.

SECTION IV.

Fire in the Woods.

523. To determine the periods of the year during which fire must not be applied within the limits of the municipality, to lands, brush-wood, trunks of trees, stumps, fallen trees and other timber for the purpose of clearing or improving lands.

This power, however, is not to be construed so as to affect the provisions of chapter : XXXVI of 33 Victoria, statutes of the Province of Quebec.

SECTION V.

Indemnity to Members of the Council.

524. To award and fix an indemnity to the warden, to the members and to the delegates of the council, for their travelling expenses and board.

CHAPTER FOURTH.

BY-LAWS SPECIALLY WITHIN THE JURISDICTION OF LOCAL COUNCILS.

525. Every local council may further make, amend or repeal by-laws for each of the objects mentioned in this chapter :—

SECTION I.

Public Highways.

§ I. ROADS AND BRIDGES.

526. To order the opening, construction and maintenance of public roads or bridges in the municipality, under the management of the council.

527. To order the widening, altering, or change of position of all municipal bridges or roads, in the municipality.

528. Whenever a municipal council has passed a by-law or resolution, in virtue of the two preceding articles, the proceedings prescribed by the provisions of article 794 and the following articles to article 821 inclusively must be carried on without delay; to regulate, determine, and apportion the works ordered by such by-law.

529. Nevertheless, if the works must be executed at the expense of the corporation, under article 535, no *procès-verbal* is made, and the works are regulated and determined by the council which orders the same.

530. To order after having given public notice, the closing or destruction of any municipal road in the municipality, whether governed by a *procès-verbal* or not.

531. The opening, constructing, widening, altering, diverting, or keeping in repair of municipal roads

or bridges, may also be ordered by a *procès-verbal* duly homologated by any council or by a board of county delegates, subject, nevertheless, to the approval of the county council in the case of the following article :

532. (*Repealed by 36 Vict., c. 21, s. 21. See Article 762a.*)

533. To cause the levelling or cleaning of any ford and the raising, rounding, paving, macadamizing, gravelling or planking of any road or part of any road under the direction of the council, at the costs and charges of any one who is liable for the work on such ford or road.

Nevertheless, if the work of paving, macadamizing, gravelling or planking, must be performed by the rate-payers liable for the road-work, or at their expense, the by-law which orders such work can only be passed on petition of the majority of the taxable proprietors so liable.

534. The works ordered on municipal roads by any by-law made in virtue of the preceding article, are governed and determined by the by-law which prescribes them, even in cases in which they must be performed by the rate-payers bound to do work on such roads by *procès-verbal* or by the sole provisions of the law.

535. (*As amended by 41 Vic., c. 18, s. 19.*) To order that all the local or county municipal roads or bridges for which the rate-payers are liable, and which are situated within the limits of the local municipality, be, for the future, made, improved and maintained at the costs and charges of the corporation of such local municipality, out of moneys levied by means of direct taxation for such purpose, on all the taxable property in the municipality; or substitute the corporation, in the place of the rate-payers of such municipality, in all

obligations to which the latter may be bound in reference to all municipal roads or bridges, local and county, water-course bridges, and road bridges.

The council may, however, except and leave in the keeping of the persons who are bound to do work thereon, front roads as well as roads or bridges leading exclusively to ferries or toll-bridges.

This article does not apply to those referred to in article 749.

Any by-law made in virtue of this article shall only come into force on the first day of the month of January following its promulgation (1).

(1) HELD :—10. That according to art. 793, a municipal corporation is liable to a fine, if it neglects to have the roads and bridges kept in the state of repairs required by law, or by by-laws or by *procès-verbaux* ;—20. That this obligation imposed by art. 793, M. C., is a duty of inspection and is not limited to the case where a by-law has been made according to art. 535 ;—30. That when a bridge built by the government on a river situated in the municipality, has been carried away by the waters, the corporation is not liable to a fine for not having rebuilt it ;—40. *Semble* that if the bridge had been built in virtue of a resolution of the municipal authorities, and when built, had been destroyed, the corporation would be guilty of negligence in not rebuilding it.—GIGUÈRE *vs.* LA CORPORATION DU TOWNSHIP DE CHERTSEY, *V Revue Légale*, 235.

HELD :—That a municipal corporation is only bound to maintain roads after it has passed a by-law under article 535, M. C. ; and so long as no such by-law is passed no obligation lies upon the corporation, and the obligation of maintaining roads remains full and entire on the rate-payers.—PARANT *vs.* CORPORATION OF ST HENRI, 1 *Quebec Law Rep.*, 869.

HELD :—That an indictment will lie against the corporation of a rural municipality for non-repair of a highway, although it is a front road of which each proprietor is bound to repair his frontage.

If such case where the corporation, after conviction, causes the road to be repaired, a merely nominal fine will be imposed, and costs will not be awarded in favor of the private prosecutor.—THE QUEEN *vs.* THE CORPORATION OF THE PARISH OF ST SAUVEUR OF QUEBEC, III *Quebec Law Rep.*, 283.

536. During the whole time that a by-law, passed in virtue of the preceding article, for the purpose of placing such works at the costs and charges of the municipal corporation, remains in force, no rate-payer is liable for work on roads or bridges thus placed at the charge of the corporation, and such corporation is substituted in the place and stead of the rate-payers, in all the obligations they are under in respect of such works, whether they proceed from *procès-verbaux*, by-laws, or the provisions of the law, under the same penalties as such rate-payers.

537. During the whole time such a by-law continues in force, every part of a *procès-verbal* or of a by-law which determines the work to be done, the manner in which it is to be done, the nature and quality of the work, and the duties of the road officers, remains in force and is obligatory upon the corporation; the other parts of the *procès-verbal* or of the by-law are suspended, and after the repeal of such by-law, revive and take effect.

538. The council may, by resolution, define the manner in which the money levied for such work must be expended and applied in the municipality.

It may also, for the execution of such work, make any contracts it thinks proper, in conformity with articles 786 and 787.

539. The road inspector of the division must take care that such work is executed by the corporation in the manner required by the *procès-verbaux* or by the provisions of law which govern the same.

In case of neglect, he must require the corporation to perform such work, and for any default so to do, prosecute in his own name.

540. No by-law made in virtue of article 535, can be repealed except by another by-law voted by two-thirds of the members of the council, which shall only

come into force on the first day of the month of January next after its promulgation.

541. To fix the time during which persons bound to keep in repair winter roads under the control of the corporation must keep the fences, mentioned in article 836, levelled, in the manner set forth in such article ; to compel such persons to put the fences up again ; or to exempt them from taking them down.

542. To place turnpikes on bridges, or on macadamized, paved, or planked roads, under the control of the local corporation ; and to levy tolls on persons, animals and vehicles passing over such bridges or roads.

The two last paragraphs of article 520, apply also to by-laws made in virtue of the preceding provision.

§ II.

Public Places.

543. To open, enclose, embellish, improve and maintain, at the costs and charges of the corporation, squares, parks, or public places, of a nature to conduce to the health and well-being of the inhabitants of the municipality.

§ III.

Sidewalks and Sewers.

544. To oblige the proprietors of lands situated on roads belonging to trustees of turnpike roads, on municipal or other roads, or on public places, in the whole municipality or in a part only of the municipality, to make and maintain on such roads or public places, in front of their respective properties, sidewalks of wood, stone or other material fixed upon.

545. To oblige such proprietors to make and maintain sewers in front of their respective properties.

546. (*As amended by 41 Vic., c. 18, s. 20.*) To fix upon the manner in which such sidewalks or sewers must be made or maintained; and even to construct them at the expense of the corporation; or by apportionment upon a portion of the municipality.

§ IV.

Miscellaneous Provisions.

547. To cause trees to be planted along roads, belonging to trustees of turnpike roads or along municipal or other roads, or along sidewalks or public places, either at the expense of the persons bound to maintain such roads or sidewalks or at the expense of the corporation.

548. To prevent parties from driving or riding faster than an ordinary trot, on roads belonging to trustees of turnpike roads, or on municipal or other roads or in public places within a radius of half a mile from any church.

SECTION II

Ferries.

549. To regulate the ferries which are under the direction of the corporation; and to determine the amount to be paid and the conditions to be observed to obtain any ferry license.

550. To fix or approve the tolls payable for crossing such ferries either in a boat, steamboat or other craft.

551. No by-law made in virtue of the two preceding articles can fix or approve the tolls payable by certain persons at a less sum than those payable by others, nor give certain persons or localities advantages refused to others.

552. (*As amended by 41 Vic., c. 18, s. 21.*) No license issued for a ferry can be granted for a period exceeding five years.

553. If the ferry is under the joint control of two local municipalities, as prescribed by article 861, the council of either municipality may make by-laws respecting such ferry, under articles 549 and 550; but such by-laws have no force and effect until they are approved by a resolution of the council of the other municipality, or in default of such resolution, by the lieutenant-governor in council.

SECTION III.

Plan and Division of the Municipality.

554. To have maps, plans or surveys of the municipality made.

Maps or plans of the municipality, prepared at the expense of the corporation, must be made by a provincial surveyor and upon a scale of at least four inches to the mile.

555. To divide the territory of the municipality into as many road divisions as may be deemed expedient, for the superintendence and direction of works on municipal roads and bridges and any other works under the jurisdiction of the road inspectors.

556. To divide the territory of the municipality

into such rural divisions as may be deemed expedient for the purposes of superintendence and direction of works in connection with water-courses, fences, ditches, and all other undertakings under the jurisdiction of rural inspectors.

557. If the municipality is not divided into several rural or road divisions, it forms one division only.

If in virtue of the two preceding articles any changes are made in the division of the municipality, while inspectors are in office, the jurisdiction of each must be determined by a resolution of the council; otherwise such inspectors continue in the exercise of their jurisdiction as if no changes had been made.

SECTION IV.

Abuses prejudicial to Agriculture.

558. To prevent the cutting down, damaging or destruction of trees planted or kept for shade or ornament, as well on public roads as on private property.

559. To prevent or cause to be done away with all abuses prejudicial to agriculture and unprovided for by law.

560. To establish pounds, in which poultry or animals found straying on beaches, flats, roads or public places, or on the property of another than their owner, may be impounded; to appoint keepers of such pounds, and to determine their fees.

The provisions of this article are binding on every town or village council, and every such council must comply therewith, within four months from the time when this code comes into force.

SECTION V.

Sale of Intoxicating Liquors.

§ 1.

Prohibition of the Sale of Intoxicating Liquors.

561. To prohibit the sale of intoxicating liquors in quantities less than three gallons, or one dozen bottles of at least three half pints each, at one and the same time, and the granting of licences therefor, within the limits of the municipality and on the ferries which are dependencies of such municipality.

561a. (*Added by 41 Vic., c. 18, s. 22*). To prohibit children or apprentices from frequenting taverns, hotels, restaurants and stores, in which are retailed intoxicating liquors.

562. Every by-law made in virtue of the preceding article, whether for prohibiting the sale of intoxicating liquors and the issue of licences therefor, or for repealing any such prohibitory by-law, only comes into force from the first day of the month of May which follows its promulgation, provided always that before such period an authentic copy thereof has been sent to the collector of inland revenue of the district.

563. The collector of inland revenue of the district cannot, so long as such by-law remains in force, issue licenses, authorizing the vending or retailing of intoxicating liquors in a quantity less than three gallons, or a dozen bottles of at least three half pints each, at one and the same time, in any inn, tavern, or other house or place of public entertainment, store, shop, or other locality whatsoever in the municipality.

564. If a prohibitory by-law has been annulled, the collector of inland revenue cannot, within two

months from the date of such judgment, grant any license, the issue of which the council prohibited or had the intention of prohibiting by such by-law so annulled.

During such interval, the council which passed the by-law so repealed, may make and put in force, according to the ordinary rules, another by-law for the same purpose, and send a copy thereof to the collector of inland revenue of the district.

565. Licenses granted in contravention to the provisions of a prohibitory by-law, and to those of this code, are null and void, within the limits of the municipality where such provisions are in force.

No license issued to distillers, or brewers, or for the retail of intoxicating liquors on board of any steamer or other vessel, or any other license whatsoever, can in any wise avail to render legal any act done in violation of this section.

566. (*As amended by 43-44 Vic., c. 11, s. 16*). In any municipality in which a prohibitory by-law, made in virtue of article 561, is in force, no person shall, under a penalty of fifty dollars or imprisonment for three calendar months, or of both together, for each offence, expose or keep for sale, sell, barter, or give in exchange for any chattel or consideration, intoxicating liquors in smaller quantities than those prescribed by the said article, delivered, taken or carried away at one and the same time, by himself, his clerk, servant or agent, directly or indirectly, on any pretence whatsoever; unless it be for medicinal purposes or for use in divine worship by the person appointed for that purpose by resolution of the municipal council and licensed therefor under the Quebec License Law, and upon the certificate of a physician in favor of a patient under his immediate care or upon that of a clergyman in favor of a person whose spiritual adviser he is *bona fide*.

567. All obligations contracted under any form, or in any manner whatsoever, for liquor obtained in contravention of the provisions of this section, are held to have been contracted without any consideration, and are null and void, except in so far as a subsequent purchaser for value received and in good faith is concerned.

Any payment made, on such consideration, either in money, work, or any other articles whatsoever, is also held to have been made without consideration, and to be null and of no effect, and the amount of value of such payment may be recovered from the receiver by the party who made the same, before any court of competent jurisdiction.

§ II.

Limitation of the Number of Licenses for the Sale of Intoxicating Liquors.

568. To limit and determine the number of licenses which the collector of inland revenue for the district may issue, for the sale of intoxicating liquors in taverns, inns, and other places of public entertainment, or in stores and shops.

569. The articles 562, 565 and 567, apply also to by-laws made in conformity with article 538.

570. If the council has passed a prohibitory by-law in virtue of article 561, the by-laws which have been made by the same council, in virtue of article 568, are suspended during the whole time such by-law continues in force.

§ III.

Miscellaneous Provisions.

571. The by-laws made by the council of a rural municipality, in virtue of the provisions of this section, are not subject to appeal to the county council.

572. All municipal by-laws and all provisions in any municipal by-law relating to the sale of intoxicating liquors, in force at the time when this code comes into effect, other than those which may have been made in virtue of articles 561 and 568, are repealed, dating from first day of May following the coming into force of this code.

SECTION VI

Storage of Gunpowder or other Explosive Substances.

573. To limit the quantity, not exceeding twenty-five pounds, of gunpowder or of any other explosive substance, to be kept in any place other than a powder magazine; and to regulate the manner in which such gunpowder or other explosive substance must be stored.

574. To authorize the construction of buildings in which any quantity greater than twenty-five pounds of gunpowder or other explosive substance must be kept at one time, and also the walls or fences by which such buildings are to be surrounded at a fixed height and distance.

To prescribe the precautions which must be taken by any person whatever entering such buildings, or conveying gunpowder or other explosive substance to or from the same, within the limits of the municipality.

575. To restrict the storage of gunpowder, or any other explosive substance, in quantities of twenty-five pounds or more, to certain limits within the municipality.

576. To provide that any gunpowder or other explosive substance, which is kept in a less quantity

than twenty-five pounds, be placed in tin, lead or copper boxes.

577. To cause to be removed or confiscated any gunpowder or explosive substance, kept or conveyed contrary to municipal by-laws.

578. The municipal by-laws respecting the storage and conveyance of gunpowder, do not apply to Her Majesty's magazines or ammunition.

SECTION VII.

Sale of Bread and Wood.

579. To fix the weight and quality of the bread sold or offered for sale in the municipality ; and prescribe the marks which it should bear.

580. To regulate the measuring of cord-wood, bark, lumber and shingles, offered for sale in the municipality.

581. To authorize the confiscation, for the benefit of the corporation or of the poor of the municipality, of every article offered for sale or sold or delivered, in contravention to the by-laws made in virtue of the provisions of this section.

SECTION VIII.

Trade Licenses.

582. (As substituted by 35 Vic., c. 8, s. 3 and as amended by 45 Vic., c. 35, s. 15.) To compel each of the following persons to take out a license from the corporation, for the exercise in the municipality of his

trade, occupation or calling, and to prevent each of them from carrying on such trade, occupation or calling, without such license :

1. Every broker or banker, and every wholesale or retail trader, residing in the municipality or not, merchant, or dealer, except such persons as are obliged to take out licenses from the government of the province, in so far only as relates to the particular business for which they must have such license ;

2. Every carter or common carrier. (1)

No such license can be given for a longer period than twelve months. The price fixed for granting any such license, in virtue of this article, must be proportioned to the extent of the business, trade, or occupation, of each person bound to take a license, and fixed at the discretion of the council, but such price must not exceed twenty dollars in the cases set forth in paragraph one, and twelve dollars in those of paragraph two.

588. Every carter or common carrier licensed as such in the local municipality in which he is domiciled, may convey any articles taken from such municipality, or any persons going therefrom, into any other municipality erected in virtue of any law whatsoever,

(1) **Held** :—That under the statute permitting municipal councils to make by-laws to compel "brokers or bankers, wholesale or retail traders, merchants or dealers, and carters or common carriers," to take out licenses from the corporation for the exercise in the municipality of their respective callings, a by-law was passed requiring a license to be taken by "any person not an inhabitant of the municipality who, by himself or by others, should come therein to carry on the trade of delivering, offering for sale or selling bread, wholesale or retail."

Such by-law was *ultra vires*, there being no power in a municipality over persons not inhabitants of it; that the said by-law was in restraint of trade to the oppression of the subject, and consequently void; and it was further illegal by reason of not being in the very words of the law conferring the right to tax.—**THE CORPORATION OF ST. ROCH SOUTH vs. DION**, Quebec Law Rep., 241.

without paying to such other municipality any municipal license or taxes by reason of such conveyance.

He may also, without being bound to take out any other license or to pay any other tax, convey within the local municipality wherein he is licensed, goods or persons coming from any other municipality erected under any law whatsoever.

In the absence of any by-law under the preceding article, respecting carters or common carriers, the council may grant to any carter or common carrier, domiciled within the local municipality, a permit which secures to him the rights conferred by the two preceding provisions.

SECTION IX.

Personal Taxes.

584. To levy annually the taxes hereinafter mentioned upon the following persons :

1. Upon every tenant who pays rent, a sum not exceeding three cents in the dollar upon the amount of his rent.

2. Upon every male person of twenty-one years of age, residing in the municipality and not otherwise taxed in virtue of this code, a sum not exceeding one dollar.

585. The valuator in office of the municipality are bound to make each year, upon order of the council, in the manner and at the time it prescribes, a return of all the persons taxed by the council in virtue of the preceding article.

Upon the refusal or neglect of the valuator to make such return in the manner and at the time prescribed, the council may have it made by one or more persons whom it appoints for that purpose.

SECTION X.

Indemnities and Relief

586. To indemnify persons whose property has been destroyed or injured, either wholly or in part, by rioters, within the limits of the municipality.

587. To contribute to the maintenance or support of poor persons residing in the municipality who, from infirmity, old age, or other causes, are unable to earn their own livelihood.

588. To relieve any person who has received any wound or contracted any sickness or disease at a fire.

589. To grant rewards, in money or otherwise, to any person who performs a meritorious action at a fire, or who saves or endeavors to save any one from drowning or from other serious accident.

590. To provide for the wants of the family of any person who loses his life at a fire, or while saving or endeavoring to save any one from a serious accident.

591. To establish and maintain poor-houses, houses of refuge, or other establishments for the refuge and relief of the poor and destitute; to give domiciliary relief to the poor residing within the limits of the municipality; and to aid charitable institutions established in the municipality or its neighborhood.

SECTION XI.*Public Nuisances.*

592. To compel the proprietors or occupants of houses to clean their stables, cattle-sheds, pigsties, out-

houses, privies, and the yards connected with such buildings, at such times and in such manner as the council deems expedient.

593. (*As Amended by 41 Vic., c. 18, s. 23*). To prevent the making deposits of substances or matters from whence issue noxious gases or odors, such as coal oil, superphosphate of lime in course of preparation, *detritus* or remains of dead animals, the contents of privies and the like; and to regulate the mode of making such deposits.

594. To prevent any person from letting off fireworks or fire-crackers, discharging fire-arms, lighting fire in the open air, in the streets or roads, or in the neighborhood of a building, grove or fence.

595. (*As amended by 36 Vic., c. 21, s. 15.*) To order dogs to be kept muzzled or tied up; to prevent them from being at large without their masters or other persons who take charge of them; to impose a tax not exceeding ten dollars on the owners of dogs kept in the municipality; and to authorize any municipal officer or other person to destroy by poison or otherwise, all dogs found at large contrary to municipal regulation.

The penalty imposed for any contravention of the by-laws made under this article may be recovered, except in so far as respects the tax, from persons residing outside the municipality, whose dogs shall have been found in contravention of such by-law.

596. To regulate the manner in which public or private slaughter-houses must be built and kept in repair.

SECTION XII.

Decency and Good Morals.

597. To prevent the desecration of all burial grounds, tombs, graves, monuments, or vaults in which the dead are buried.

598. (*As amended by 45 Vic., c. 35, s. 16.*) To suppress every kind of gambling and the existence of gambling houses, or houses of ill-fame ; and to authorize any constable to arrest each and every person found therein.

599. To prohibit circuses, theatres or other public exhibitions from being held ; to regulate and permit them to be held upon such conditions as may be deemed fit, and subject them to a duty or tax which must not exceed fifty dollars for each performance.

Every tax imposed by a by-law made in virtue of this article, if it is not paid on demand, may be levied upon all movables and effects, even upon those which are ordinarily exempt from seizure, found in the possession of any of the persons connected with such circus, theatre or exhibition, under a writ of seizure, signed by the mayor or by a justice of the peace, and executory forthwith, without other preliminary formality.

600. To cause the bars of inns, taverns and of other places of public entertainment, to be closed from seven o'clock in the evening on Saturday, until the following Monday at four o'clock in the morning.

601. To prevent, on Sunday and holidays of obligation, horse races and all other horse exercises upon any race course or place whatever.

602. To prevent cock fights, dog fights and every other cruel amusement ; and punish whoever takes part in or is present at them.

603. To prevent profane oaths, and blasphemous

and obscene language from being used on roads, squares, or in their vicinity.

604. To prevent the posting up, or the making or writing of indecent placards, paintings, drawings, words or inscriptions, upon houses, walls or fences, and on roads or squares.

605. To prevent persons from bathing or washing themselves in public waters, or in the open air, close to the public roads or squares, or to regulate the manner in which bathing in such places may be performed.

606. To prevent all persons, even those having licenses, from selling or giving intoxicating liquors to any child, apprentice or servant, without the consent of the father, mother, master or legal guardian thereof.

SECTION XIII.

Public Health.

607. To establish boards of health and appoint the members thereof.

608. To take proper measures for securing the inhabitants of the municipality, from contagious or pestilential diseases, or for diminishing the danger resulting therefrom.

SECTION XIV.

Miscellaneous Provisions.

609. To erect in the municipality, if there is no district goal in such municipality, a lock-up house for the incarceration of persons sentenced to a term of

imprisonment not exceeding thirty days, in virtue of the provisions of this code or of the municipal by-laws.

610. To encourage, establish and maintain fire companies or firemen for the protection of property.

611. To limit the number of general or ordinary sessions of the council, to not less than four in the year.

612. To oblige the proprietors and occupants of lands to fence the same along municipal or other roads.

613. To enclose at the cost of the corporation, any land recognized as a public cemetery.

614. To establish and maintain public drinking fountains in the municipality.

615. To impose a duty, not exceeding twenty-five dollars, on certificates approved by the council, to obtain a license for keeping any inn, tavern, temperance hotel, or other house or place of public entertainment.

CHAPTER FIFTH.

BY-LAWS SPECIALLY WITHIN THE JURISDICTION OF TOWN
OR VILLAGE COUNCILS.

616. Every town or village council may further make, amend and repeal by-laws for any of the objects mentioned in this chapter.

SECTION I.

Division of the Municipality into Wards.

617. To divide the municipality into as many wards as is deemed expedient for the purposes of representation in the council; to determine the limits of each ward; and to fix the number of councillors that the municipal electors of each ward may appoint to represent them in the council, so that the councillors of the municipality shall number seven in all, and in such manner that the term of office of each of such councillors shall be three years, save in so far as regards the term of office of the councillors elected at the first general election after the coming into force of the by-law, or appointed by the lieutenant-governor in the absence of an election.

618. The by-laws made in virtue of the preceding article, must determine the manner in which councillors elected at the first general election, or appointed by the lieutenant-governor in the absence of an election, shall go out of office, so that as many councillors for each ward shall be elected or appointed, as go out of office.

619. At the time of the general municipal election which follows the coming into force of any by-law made under article 617, dividing or re-dividing any municipality into wards, the councillors then in office retire therefrom, and seven councillors, within the whole municipality, must be elected, or appointed by the lieutenant-governor in the absence of an election.

620. In every municipality divided into wards for the purposes of municipal representation, the meeting of the municipal electors of each ward is convened to be held in each of such wards, at the place named in the public notice.

621. If more persons are proposed for election in a ward than there are councillors to be elected, the presiding officer must proceed to hold a poll for such ward, at the place of meeting itself in the usual manner.

622. Municipal electors can only vote in the ward in which they are duly qualified electors.

If they are duly qualified as municipal electors in several wards, they may vote in each ward in which they possess such qualification.

623. The council must appoint, to preside at the meeting and in the holding of the polls in the various wards, as many poll clerks as there are wards in the municipality.

623a. (*Added by 38 Vic., c. 25, s. 1.*) The council, on the petition to that effect, of the proprietors representing two-thirds in value of taxable real estate, shall be bound to divide the municipality into three wards at least, in conformity with articles 617 and 618.

On the refusal or neglect of the council to pass a by-law for this object, at one of the two general meetings following the presentation of the petition, the lieutenant-governor in council may make such division, which shall have the same effect, as if made by the municipal council.

SECTION II.

Masters and Servants.

624. To regulate the conduct of apprentices, servants, hired persons, day-laborers or journeymen, whether they be of age or minors, towards their masters or mistresses, and the conduct of masters and mistresses towards the former.

In default of by-laws made under this article, regulating the conduct of apprentices, servants, hired persons, day-laborers, or journeymen, whether of age or minors, towards their masters or mistresses, and that of masters and mistresses towards the former, in any village or town municipality, the provisions of the law respecting masters and servants in force in rural municipalities, are applicable within such village or town municipality.

SECTION III.

Public Markets.

625. To establish, change, abolish or keep in order public markets or place in which public markets are held; and to regulate the lease of stalls or stands therein, for the sale, or offering for sale, of every description of goods, merchandise, or wares, or of any specific commodity.

626. To determine and define the duties and powers of all officers employed on the public markets within the whole extent of the municipality.

627. To prevent any person, not resident in the municipality, from selling or exposing for sale in the municipality, provisions, grain, wares, or other merchandise, elsewhere than upon the markets of the corporation.

628. To prevent any person, residing in the municipality, from cutting up or weighing any meat, whether beef, mutton, lamb, veal, pork, or salt beef, for the sale thereof, or from exposing the same for sale, on any such markets, elsewhere than in a butcher's stall or in a stall for the sale of salt provisions, provided that nothing contained in this article shall be deemed to prohibit the sale on such markets, by far

mers or sportsmen, of any kind of meat and venison not cut up, or in quarters only.

629. To prevent or to allow the sale, by residents or, non-residents in the municipality, of any kind of fresh or unsalted fish, in such manner and at such places as may be fixed upon, the whole without prejudice to any thing contained in the laws, relating to fishing and hunting.

630. To regulate the conduct of any person selling or exposing for sale, purchasing or seeking to purchase upon such markets.

631. To impose duties on all persons selling on the roads or on the markets or market places of the corporation, any provisions, vegetables, butchers' meats, poultry, grain, hay, straw, firewood, shingles and other articles.

632. To impose duties upon wagons, carts, sleighs, boats, canoes and vehicles of all descriptions, in which articles are exposed for sale upon the markets, on the public roads or ways, or upon a beach.

633. To regulate the manner in which such wagons, carts, sleighs, boats, canoes, and vehicles shall be placed in the markets or market places, or on the roads.

634. To restrict and make regulations affecting hucksters or persons who purchase for the purpose of retailing articles brought into the municipality.

635. (*As amended by 39 Vic., c. 29, s. 9.*) To determine whether articles brought into or produced in the municipality to which no provision of the law applies, must be sold by weight or measure.

636. To authorize the confiscation, for the benefit of the corporation or the poor of the municipality, of

all goods, wares, or articles bought or sold or delivered in contravention to the by-laws made in virtue of the provisions of this section.

SECTION IV.

Waters and Lights.

637. (*As amended by 41-42 Vic., c. 10, s. 23 and by 44-45 Vic., c. 22.*) To provide for the establishment, protection and management of aqueducts, public wells or reservoirs, and to prevent the same from being fouled or wasted.

637a. (*Added by 44-45 Vic., c. 22.*) To grant for a fixed number of years to any company, person or society of persons, who will undertake to construct an aqueduct, public wells or reservoirs, or who shall assume the management thereof, an exclusive privilege of laying pipes to supply water within the limits of the municipality, and enter into a contract for such supply of water for one or more years, but for a period not to exceed twenty years.

637b. (*Added by 41-42 Vic., c. 10, s. 23.*) To provide over and above any tax for the establishment, or for the maintenance of aqueducts, public wells or reservoirs, for the payment of a compensation for the water, according to such tariff as it shall be meet, every proprietor, tenant or occupant of any house, shop or like building, whether or not the latter avail themselves of the water, provided always that the council cause a notice to be served on them to the effect that it is prepared to conduct the water, at its own expense, into or near their houses, shops or buildings.

Every by-law to compel proprietors, tenants or occupants to pay such compensation for water, before having force or effect, must be approved by the major-

ity of the electors being proprietors of real estate in the municipality who vote on such by-law, and by the Lieutenant-Governor in council ; provided always that the number of those who vote in favor of such by-law is at least one third of the total number of electors being proprietors.

Every proprietor having one or more tenants, sub-tenants or occupants, shall be liable for the payment of such compensation in the event of his refusing or neglecting to furnish a distinct and separate supply pipe to such tenant, sub-tenant or occupant.

627 c. (*Amended by 44-45 Vic., c. 22 s. 3.*) To provide for the payment of annual subsidy to any company, person or firm of persons which shall undertake the construction of an aqueduct, public well or reservoir during such period, as may be agreed upon.

Every by-law passed in virtue of the present article before having force and effect, must be approved by the majority of the electors being proprietors of real estate in the municipality who vote on such by-law and by the Lieutenant-Governor in council ; provided always that the number of those who vote in favor of such by-law, is at least one third of the total number of electors being proprietors.

638. To provide for the lighting of the municipality, in any manner deemed suitable.

639. (*As replaced by 45 Vic., c. 35, s. 17.*) To compel the owners or occupants of lands situated, as well in the municipality as in a neighboring municipality, to permit and allow all works, undertaken for the purpose of providing the inhabitants of the municipality with water or light, to be carried on, and the taking possession, for the purpose of supplying and feeding such water works and other hydraulic constructions, of the innavigable lakes, ponds, springs and water courses, having their source or flowing on private property, without however diminishing the volume or turning the course of such waters flowing over several properties, so as to interfere with the rights of riparian proprietors to use the same, as well

under the common law, as under chapter 51 of the Consolidated Statutes for Lower Canada, saving recourse for any indemnity determined by the valuers of the municipality, wherein such land is situated, in conformity with the rules prescribed in articles 902 and following of the title on expropriation.

640. (*As substituted by 41 Vic., c. 18, s. 24.*) To transfer its rights and powers respecting the supplying water to any company, person or firm of persons who wish to take charge thereof, provided that such company, person or firm do not exact for the supplying of the water, higher rates than those fixed and approved of by by-laws of the council ; and the council may take stock in such company, or lend money to such company, person or firm of persons.

Every by-law passed under this article, is subject to the provisions of art. 482.

SECTION V.

Public Nuisances.

641. (*As amended by 45 Vic., c. 35, s. 18.*) To cause the removal of any door-steps, stairs, porches, railings, balconies, buildings or other erections which project beyond the line of the public road, or obstruct public communication, at the expense of the owners or occupants ; and to compel the latter to require the running of the line of the public highway before building.

642. To cause to be pulled down and removed all walls, chimneys or buildings in a state of dilapidation or decay, or threatening to fall down ; and to fix at what time, by what means, and at whose expense the same shall be so pulled down or removed.

643. To prevent the throwing in to any public road or way, lane or passage, any sweepings, filth, dirty water, or other ordure ; and order the removal thereof at the expense of the corporation or of those who caused such nuisances.

644. To compel the owner or occupant of a piece of land bordering upon a road or square, to remove the snow, ice, or filth, from the sidewalk or road

fronting such land, even in cases where the road work is at the costs and charges of the corporation ; to remove the snow and ice from the roofs of houses or other buildings erected on the public roads ; and order the road inspector to cause such nuisance to be removed, at the expense of the owner or occupant who refuses or neglects so to do.

645. To obviate and prevent the obstruction of the side-walks, roads and squares.

646. To regulate the construction of privies and cellars, and the manner in which they are drained.

647. To prevent the erection of wooden buildings or fences within the municipality, or in any specified part of it.

648. To prevent the erection in the municipality, of manufactories or machinery propelled by steam ; to permit them upon certain conditions, or to determine the places in the municipality where they may be erected.

649. To prevent or regulate the construction of slaughter-houses, gas-works, tanneries, candle or soap factories, distilleries, and other manufactories which may become public nuisances ; and to cause the removal of slaughter-houses then existing in the municipalities.

650. To prevent any person from carrying, depositing or leaving in the municipality, or in the waters which border upon it, dead bodies or other deleterious substances.

651. To oblige the owners or occupants of all groceries, cellars, manufactories, tanneries, drains or other unhealthy and unwholesome places, to keep them clean and render them wholesome.

652. To compel all owners or occupants of lands on which there are stagnant waters, to drain or fill

them up ; and, in case of neglect or refusal on the part of such persons, to authorize the officers of the corporation to undertake such work at their expense.

SECTION VI.

Miscellaneous Provisions.

653. To prescribe the mode of placing stoves, grates and stove pipes, and making chimneys, furnaces and ovens of every description ; and to regulate their use.

654. (*As amended by 45 Vic. c. 35, s. 19.*) To oblige owners or occupants of houses or other buildings to provide themselves with a fixed number of fire buckets, or with any other apparatus suitable for preventing accidents by fire ; and to have ladders from the ground to the roofs of their houses, and thence to the top of the roof.

And order that such house or building be not covered with shingles, unless a coat of cement or adhesive mortar, of at least one-half inch in thickness, be placed upon the boarded roof, underneath the shingles, and between both, under a penalty for each contravention of a fine the amount of which shall be fixed in the said by-law.

655. To prevent any person from entering any cattle shed, stable, pig-sty, barn or out-house with a light not enclosed in a lantern, or with a lighted cigar or pipe, or from carrying into the same any fire without proper precaution.

656. (*As amended by 41 Vic., c. 18, s. 25.*) To prevent any person from lighting or having any fire in any out-house, pig-sty, barn, shed or other buildings, unless such fire be placed in a chimney or in a metal stove connecting with a chimney.

657. To prevent any person from carrying fire in or through any public road or way, or through any garden, yard or field, unless such fire be contained in a metal vessel.

658. To compel proprietors or occupants of barns, hay-lofts or other buildings containing combustible or

inflammable materials, to keep the doors thereof closed.

659. To compel the owners or occupants of houses to have their chimneys swept; to determine the mode in which such sweeping must be done, and the number of times such chimneys must be swept within a given period; and appoint the chimney-sweeps to be employed.

660. To prevent the sale of gunpowder or other explosive substance after sunset.

661. To prevent or regulate the construction of furnaces for making charcoal.

662. To determine the manner in which ashes or quicklime must be kept or stored.

663. To provide for the purchase of engines, apparatus or articles suitable for the prevention of accidents by fire, and for arresting the progress of fires.

664. To prevent thefts and depredations at fires.

665. To authorize certain persons to blow up, destroy and pull down as many buildings as may be deemed necessary to arrest the progress of a fire, saying recourse for any damages and indemnities payable by the corporation to the owners of such buildings.

In the absence of any by-law made in virtue of this article, the mayor may, in the course of a fire, exercise this power by giving a special authorization.

The corporation can always, even in the absence of any by laws or special authorization by the mayor to that effect, award and pay an indemnity to any person who has suffered loss and damage by the demolition of his buildings during a fire.

666. To regulate the conduct of every person present at a fire.

667. To determine the level and height of the

side-walks, safety and division walls upon the public road or way whenever the council deems it expedient for the convenience, safety and benefit of the inhabitants of the municipality.

668. To maintain, arm, lodge and clothe a police force in the municipality; and to fix the duties of the members of such force.

669. To cause the houses and lots situated on the roads in the municipality to be numbered.

670. To have the streets and sidewalks swept, watered and kept in good order; and to have the snow removed therefrom at the expense of the corporation.

CHAPTER SIXTH.

FORMALITIES TO BE OBSERVED BEFORE MUNICIPAL BY-LAWS
ARE CARRIED INTO EFFECT OR PUT INTO FORCE.

SECTION I.

Approval by Municipal Electors.

671. Whenever it is prescribed that a by-law must be approved of by the municipal electors before coming into force and effect, the council, who has passed such by-law, orders, by resolution, that a public meeting of the electors of the municipality be held for the purpose of approving or disapproving such by-law, and that a poll be held for such object.

672. If the by-law has been passed by the county council, it is submitted for the approval of the municipal electors of the county, in each local municipality of the county; and the meeting is convened by the warden, for the same day, at ten o'clock in the forenoon, in each of such local municipalities.

673. The day for which the meeting of municipal electors is convened, must not be less than twenty days or more than thirty days after the passing of the by-law by the council.

674. The meeting of the municipal electors is held at the place where the local council holds its sitting.

675. (*As amended by 36 Vic., c. 21, s. 16*). A certified copy of the by-law, submitted for the approval of the municipal electors, must be posted up, at least fifteen days before the holding of the meeting, in the places where the municipal by-laws are ordinarily published, and it must be inserted twice at full length in one or more newspapers before such meeting, subject to the application of articles 243 and 244.

676. A certificate of the secretary-treasurer, certifying that the copy of the by-law published is a true copy of the by-law passed by the council, and also the notice convening the municipal electors, must be posted up and published at the same time and in the same manner as the copy of the by-law.

677. The meeting of the electors is presided over, in each local municipality, by the mayor, or in his absence, by a person chosen by the meeting.

678. The secretary-treasurer of the local council is bound to be present at such meeting, with the original or a certified copy of the valuation roll in force; and he acts at such meeting as poll clerk.

678a. (*Added by 35 Vic., c. 8, s. 8; and as amended by 36 Vic., c. 21, s. 17, and by 38 Vic., c. 25, s. 2*). The chairman after opening the meeting and reading the by-law, is bound to open the poll without delay, and to proceed to register the votes. (1)

(1) **HELD:**—That the omission to read a by-law does not annul the by-law, but renders the officer bound to make such reading

678b. (*Added by 35 Vic., c. 8, s. 3, is repealed by 38 Vic. c. 25, s. 3).*

678c. (*Added by 35 Vic., c. 8, s. 8, and amended by 36 Vic., c. 21, s. 17, is repealed by 38 Vic., c. 25, s. 3).*

679. The person presiding at the meeting has no right to vote thereat.

680. Articles 300, 301, 306, 315, 316, 317, 318, 319, 322, 323 and 324, apply also, *mutatis mutandis*, to a meeting convened for the approval or disapproval of a municipal by-law, to the person who presides at such meeting, or to the poll which is held thereat.

681. Every municipal elector, except in the case of article 497, is qualified to vote for or against the by-law submitted. The electors give their vote "yea" or "nay;" the word "yea" meaning that they approve of the by-law, and the word "nay" that they disapprove of it.

The poll books are kept in the same manner as those used at an election of municipal councillors, except in so far as the contrary is prescribed in this section.

682. At the close of the poll, the presiding officer counts the "yeas" and "nays," and ascertains and certifies according to the poll book, the number of votes given for or against the by-law in the municipality. The certificate must also be signed by the poll clerk.

683. The poll books and the certificate are deposited in the office of the council which passed the by-law, by the presiding officer at the meeting, within forty-eight hours after the close of the poll.

liable to the fine imposed by the law.—*PARENT vs. LA CORPORATION DE LA PAROISSE DE ST. SAUVEUR*, II *Quebec Law Rep.*, 258.

684. If the by-law has been passed by the county council, the warden, so soon as the poll books and certificate have been deposited at the office of the council, ascertains by each certificate the total number of votes given for or against the by-law.

685. In the case of an equal division of votes, the head of the council which has passed the by-law, gives his vote.

686. The approval or disapproval of the municipal electors, as the case may be, must be established without delay by a certificate, signed by the head and by the secretary-treasurer of the council which passed the by-law. Such certificate is submitted to the council at one of its next sessions.

If the council desires to examine the poll books, they must be laid before it at once.

SECTION II.

Approval of the Lieutenant-Governor in Council.

687. Whenever it is prescribed that a municipal by-law must be approved of by the lieutenant-governor in council, before having force and effect, the secretary-treasurer of the council, after the passing of such by-law, or after it has been approved of by the municipal electors, if it has been necessary to submit it to them, forwards an authentic copy of the by-law to the provincial secretary, together with a certified copy of all documents calculated to convey information to the lieutenant-governor upon the fulfilment of the provisions of the law, and the utility of the passing of such by-law.

688. The lieutenant-governor may exact from the council which has passed such by-law, all the documents and information he deems necessary for assur-

ing himself of the utility of the by-law or of any of its provisions.

689. The lieutenant-governor in council must not approve of a municipal by-law until after proof has been made to his satisfaction that the formalities required for the passing of such by-law have been observed.

690. A by-law which, before having force and effect, must be submitted to the municipal electors, and to the lieutenant-governor in council for approval, must, in the first instance be submitted to the municipal electors, and afterwards to the lieutenant-governor in council, if it has been approved by them.

SECTION III.

Promulgation of Municipal By-Laws.

691. Municipal by-laws are promulgated on the day of their publication in virtue of the following article.

692. Municipal by-laws are published within fifteen days after the passing thereof, or of their final approval in cases where they may have been submitted for approval to the municipal electors or to the lieutenant-governor in council, by a public notice mentioning the object of the by-law, and the date of the passing thereof.

Such notice is given under the hand of the secretary-treasurer, and published in the ordinary manner.

If the by-law is approved of by the municipal electors, or by the lieutenant-governor in council, or by any other council, when such approval is required, the notice of publication must also mention that each of these formalities has been observed, and the dates upon which they were complied with.

693. Every municipal by-law must be read at any place determined on by the local council, under article 234, if such place has been fixed, on two Sundays within thirty days following the day on which it was published in virtue of the preceding article, after divine service, if divine service has been performed.

If it is a by-law of a county council, and if the notice of publication has been addressed, under article 235, to the secretary-treasurer of any local municipality, such officer must provide for the by-law being read in the manner required by the preceding provision.

The neglect to read such by-law, in conformity with this article does not prevent such by-law from coming into force, but it renders the person whose duty it is to read the same liable to a penalty of not less than ten nor more than twenty dollars.

694. Any council may, moreover, publish its by-laws in one or more newspapers.

695. Any by-law, passed by a council of a rural municipality and amended or confirmed in appeal by the county council, must be published by the secretary-treasurer of the local council, within the fifteen days after the transmission, in virtue of article 934, of the decision of the county council, or of the certificate of the secretary-treasurer if that council gave no decision even though such by-law may have been published before the appeal to the county council.

696. A municipal by-law may always be published after the delay prescribed by articles 692 and 695, but only by order of the council.

697. The promulgation of every municipal by-law is considered to have been sufficiently made, until the contrary is alleged, at the expiration of the delay prescribed for the publication of such by-law.

CHAPTER SEVENTH.

ANNULMENT OF MUNICIPAL BY-LAWS.

698. Any municipal elector in his own name, may by a petition presented to the magistrate's court or to the circuit court of the county or district, demand and obtain, on the ground of illegality, the annulment of any municipal by-law, with costs against the corporation.

699. The annulment of part only of a by-law may be demanded and obtained in the same way.

700. The petition must set forth in a clear and precise manner, the reasons alleged in support of the demand, and must be accompanied by a certified copy of the by-law impugned, if such copy could be obtained.

If such copy could not be obtained, the court, upon application being made to it to that effect, orders the secretary-treasurer of the council, or any other person in whose custody such by-law may be, to produce such copy ; and such person in the same manner as the secretary-treasurer, is for this purpose deemed to be an officer of the court which gives such order.

701. Such petition must be served at the office of the council which passed the by-law, eight days at least, before it is presented to the court.

702. The rules prescribed by articles 352, 353, 354 355, 356, 358, and 360 apply also *mutatis mutandis* to the petition presented in virtue of the provisions of this chapter.

703. The court may, by its judgment, annul such by-law, in whole or in part, order the service of such judgment at the office of the council interested, and cause the same to be published either in the manner

prescribed for the publication of orders of the council or in one or more newspapers.

704. Any by-law or part of a by-law so annulled, ceases to be in force from the date of the judgment.

705. Nevertheless, every tax, contribution, penalty, or obligation imposed by any by-law subject to be annulled, and payable before such by-law was set aside, is exigible, notwithstanding the setting aside of such by-law, if the petition on which such by-law was set aside was not presented to the court within three months from the time such by-law came into force.

Every loan contracted and every debenture issued in virtue of a by-law liable to be set aside, is valid, and the taxes imposed to pay such loan or such debenture, are due and exigible if the petition praying that such by-law be set aside, was presented to the court after the three months which follow the coming into force of such by-law.

706. The corporation, the council whereof passed the by-law so annulled, is alone responsible for the damages and rights of action proceeding from the putting into force of such by-law or of such part of a by-law.

707. (*As amended by 41 Vic., c. 18, s. 26.*) Such responsibility is incurred, nevertheless, only in the case where the petition for annulment has been served at the office of the council within thirty days after the by-law has come into force.

708. (*As amended by 39 Vic., c. 29, s. 2.*) The right of demanding the annulment of any by-law, is prescribed by thirty days from the date of the coming into force of such by-law.

TITLE SECOND.

VALUATION OF TAXABLE PROPERTY.

CHAPTER FIRST.

WHAT PROPERTY IS TAXABLE.

709. All lands or real estate situated in a local municipality, except those mentioned in article 712, are taxable property.

710. The following property is taxable in every local municipality in which it is possessed :

1. The yearly salary or income derived from the office of every judge or other civil servant appointed by the federal or provincial government ;

2. The annual professional income of every advocate, notary, pilot, physician, surgeon, dentist, civil engineer, or provincial land-surveyor ;

3. The annual salary of all other persons engaged in another's service, and whose salary exceeds four hundred dollars per annum.

711. If a rate-payer, who possesses property, declared to be taxable under the preceding article, has his domicile in one local municipality, and his place of business, from which is derived such taxable property, in another, such property is only taxable in the local municipality in which is situated his place of business.

712. (*As amended by 36 Vic., c. 21, s. 18, and by 41-42 Vic., c. 11, s. 25.*) The following property is not taxable :

1. Property belonging to Her Majesty, or held in trust for her use, and property owned or occupied by the corporation of the municipality in which it is situated ;

2. Property owned by or occupied for the use of the federal or the provincial government :

3. Property belonging to *Fabriques*, or religious, charitable, or educational institutions or corporations, or occupied by such *Fabriques*, institutions or corporations, for the end for which they were established, and not possessed solely by them to derive a revenue therefrom ;

4. Burial-grounds, bishops' palaces, parsonage houses and their dependencies ;

5. All property belonging to iron or wooden railway companies, to which a grant from the provincial government has or may be made, for the period of twenty years from the date of the first payment on account of the grant.

713. The occupants of property mentioned in paragraphs 3, 4 and 5 of the preceding article, are nevertheless liable for works of repair upon the front roads situated opposite such property in the local municipalities wherein such roads are not at the costs and charges of the corporation.

They are also liable for work on water-courses, clearances, boundary ditches and fences, belonging to such lands.

714. Crown lands occupied, whether under or without location tickets, are deemed to be taxable property ; but the municipal taxes for which they are liable, cannot, in any case, be recovered from the crown.

715. (*As replaced by 45 Vic., c. 36, s. 6.*) The provincial registrar shall transmit, during the course of the month of January in each year, a list of the public lands, for which letters-patent have been issued during the preceding year to the registrars of the registration divisions and to the secretary-treasurers of the county municipalities in which such letters-patent have been so issued.

CHAPTER SECOND.

MAKING OF THE VALUATION ROLL.

716. (*As amended by 36 Vic., c. 21, s. 19, and by 45 Vic., c. 35, s. 20.*) In the months of June and July next after the coming into force of this code, and thereafter triennially in the same months the valuator of every local municipality, must draw up, either by themselves or by any other person employed by them, a valuation roll based upon the real value of the property, in which are set forth with care and exactitude all the particulars required by the provisions of this title.

Nevertheless in the counties of Gaspé and Bonaventure, the valuation roll must be drawn up in the months of February and March. (1)

717. In every local municipality where there is no valuation roll or in which the valuation roll in force has been annulled, the valuator is bound to make one, upon an order of the council within the delay determined by the latter, even if it should not be the year during which valuation rolls are made in virtue of the preceding article.

The valuation roll so made is subject to the examination of the county council and remains in force until the month of July of the year in which valuation rolls are made in virtue of the preceding article, and subsequently until the coming into force of the new valuation roll.

718. (*As amended by 36 Vic., c. 21, s. 20, by 38 Vic., c. 24, s. 1, by 41-42 Vic., c. 11, s. 26, and by 45 Vic., c. 36,*

(1) **Held:**—That the right which a municipal council has of amending a valuation roll, does not imply that of making a new one, and a new one can be made only every three years,—that the duty imposed upon municipal corporations of having a valuation roll made every three years, does not give them power of making one before the expiration of this delay.—*MORGAN & AL. & COTÉ & AL., III Legal News, p. 224. (SIR A. A. DORION and Tessier J., dissenting.)*

s. 7.) The valuation roll must include all taxable property in the municipality, and must specify in so many distinct columns and in the following order :

1. The consecutive numbers on the roll ;
2. The names and sur-names of the owners of taxable property if they are known ;
3. The quality and age of such owners ;
4. By whom it is occupied ;
5. The qualities and age of the occupants when they are not the owners ;
6. The indication or designation of the taxable real estate, in the manner prescribed by a resolution of the council ; but for any part of the land cadastrated, it shall be necessary to use the numbers of the cadastre ;
7. The actual value of such real estate, giving separately the value of any part of a lot occupied by any person not being the owner. (1)
8. Their annual value or rent ;
9. The nature of the property declared taxable by article 710 ;
10. The value of such property ;
11. The total value of the taxable property of each person including, if necessary, the actual value of the

(1) *Held* :—1o That the valuation roll is an authentic document which makes complete proof of real and annual value of the taxable properties of a municipality for all electoral ends.—2o That it is not allowed, when revising the list, to admit of another value than the one mentioned on said roll.—3o That the valuation roll does not prove the quality of proprietor, occupant or tenant, when the list was made.—4o That the council may, when revising the list, substitute to the names of those who were not before that time proprietors, occupants or tenants, the names of the persons which have such qualities when the list is made.—*GRATTON vs. LA CORPORATION DU VILLAGE STE SCHO-
LASTIQUE, VII Revue Légale, 356.*

real estate and the value as mentioned in the foregoing paragraph ;

12. All other information required by the council ;

13. The actual value of the property declared not taxable, by article 712 ;

14. The number of persons resident in the municipality.

15. *Repealed by 38 Vic., c. 24, s. 1 and then replaced by 45 Vic., c. 36, s. 7.* And all other details prescribed by the provincial secretary.

16. *Repealed by 38 Vic., c. 24, s. 1.*

17. *Repealed by 38 Vic., c. 24, s. 1.*

18. *Repealed by 38 Vic., c. 24, s. 1.*

719. The actual value of the taxable real estate includes the value of all buildings, factories or machine shops erected thereon and of any improvements which have been made thereto, save in so far as is set forth in the two following articles.

720. (*As amended by 41 Vic., c. 18, s. 27.*) Every iron railway company or wooden railway company, other than those mentioned in the fifth paragraph of article 712 and possessing real estate in a local municipality, must transmit to the office of the council of such municipality in the month of May in each year, a return showing the actual value of their real estate in the municipality other than the road, and also the actual value of the land occupied by the road estimated according to the average value of agricultural land in the locality.

Such return must be communicated to the valuers by the secretary-treasurer in due time.

721. The valuers in making the valuation of the taxable property in the municipality, must value the real estate of such company, according to the value specified in the return given by the company.

722. If such return has not been transmitted in

the time prescribed, the valuation of all the immovable property belonging to the company is made in the same manner as that of any other rate-payer.

723. If the owner of land is unknown, the valuers insert the word "unknown" in the column of names of owners, opposite the description of such land.

724. The lieutenant-governor may, by instructions given to any local council, require the insertion in the valuation roll, of all details and information he may desire respecting the census and statistics of the inhabitants of the municipality and of their movable and immovable property; and the valuers are bound to obtain such details and information by every means in their power, and to insert them with accuracy in the valuation roll prepared by them.

725. (*As amended by 45 Vic., c. 35, s. 21.*) The valuation roll must be signed by at least two of the valuers who drew it up or caused it to be drawn up, and by the secretary-treasurer or any other person whom they employed as clerk, and it must be attested by all such persons on oath, taken before a justice of the peace in the following form:

We (names of valuers and of the clerk or secretary-treasurer) swear and solemnly affirm, each and every one of us, that to the best of our knowledge and belief, the foregoing valuation roll is correct and based upon the real and annual value of the property, and that nothing has been unduly or fraudulently omitted or inserted in it: So help us God.

726. The valuers must deposit the valuation roll made by them, within the delay fixed for making such roll, in the office of the council. Such deposit cannot be made after the prescribed delay has expired.

727. If at the expiration of the time prescribed, the valuers have not made and deposited the valuation roll in the office of the council, the mayor of the

secretary-treasurer must, without delay, inform the lieutenant-governor of the fact, by letter addressed to the provincial secretary.

Any rate-payer may, in the same manner, give such information to the lieutenant-governor

728. The lieutenant-governor, as soon as such negligence or refusal of the valuator has been made known to him, appoints three valutors whom he orders to make a valuation roll and deposit the same at the office of the council within a delay fixed by him.

If such delay be not fixed, these valutors must make and deposit the valuation roll within the thirty days following the notice of their appointment.

729. The valutors appointed by the lieutenant-governor in virtue of the preceding article, only act in relation to the valuation roll which the valutors in office omitted to make.

Such valutors are municipal officers; and in the exercise of their duties they are invested with the same rights and powers, subject to the same obligations and liable to the same penalties for refusal, negligence, default or omission as the valutors appointed by the council.

730. Each of the valutors appointed in virtue of article 728, is entitled to an allowance of two dollars for each day he is employed in valuing taxable property, and in drawing up the valuation roll. The amount of such fees is determined and taxed by certificate of the mayor, and is recoverable in the manner prescribed for penalties imposed by the provisions of this code, by the valuator entitled thereto, from the valutors in default, who are jointly and severally liable for the amount of the same with costs.

731. The lieutenant-governor may, if the valutors appointed by him, in virtue of article 728, refuse or

neglect to make and deposit the valuation roll within the prescribed delay, replace them by new valuator, and so on until the valuation roll be made and deposited in conformity with the provision of this title.

732. So soon as the valuator have deposited the valuation roll in the office of the council, the secretary-treasurer must give public notice thereof.

733. The three valuator must act together in making the valuation roll.

CHAPTER THIRD.

EXAMINATION OF THE VALUATION ROLL.

734. (*As amended by 41-42 Vic., c. 11, s. 27.*) The local council must, within thirty days next after the notice given in virtue of article 732, examine and amend the valuation roll deposited by the valuator, even though no petition or complaint has been made in reference thereto, by making the valuation of any taxable property which may have been omitted, and by inserting therein such omitted property with its value and all other particulars relating thereto required by article 718, by striking therefrom any property erroneously inserted therein; by fixing at such sum as it think reasonable, any valuation of taxable property which it judges to have been made under or above its true, real or annual value, or by correcting the names of persons entered therein or the description of the lands mentioned therein, or by inserting therein whatever the valuator have omitted to insert.

735. Every person who considers himself wronged by the valuation roll prepared by the valuator, may demand that the same be amended in such a manner as to cause that justice be done to him, either by pro-

ducing an application in writing at the office of the local council upon or before the day fixed for the examination of the roll by the council, or by stating his complaint verbally before the council at such examination.

736. Before the local council proceeds to the examination and amendment of the valuation roll, it must, by public notice, inform the inhabitants of the municipality of the day and hour of the session at which the same is to be commenced.

737. The council at the time of the examination of the valuation roll, must take notice of all complaints lodged at its office or made verbally before it, and hear all parties interested, and the valuers present, and their witnesses.

738. Any amendment made to the valuation roll must be entered upon such roll, or on a paper annexed thereto, with the initials of the secretary-treasurer.

A declaration testifying to the accuracy of the amendments and determining the number thereof, together with the time at which they were made, must be entered on the roll or annexed thereto, under the signature of the president and the secretary-treasurer.

739. (*As amended by 45 Vic., c. 36, s. 8.*) The mayor and the secretary-treasurer are bound to forward to the office of the county council and to the provincial secretary, within ten days after the expiration of the thirty days mentioned in article 734, a certified copy of the valuation roll as it then stands.

740. (*As amended by 45 Vic., c. 35, s. 22.*) Every county council must, during the month of September, in the year wherein the new valuation rolls are made in virtue of article 716, or at a subsequent date fixed by the county council or by the warden of the county, special notice to that effect being previously given to all the members composing such council, examine all the valuation rolls made in the local municipalities of the county, which have been forwarded to its office, ascertain whether the valuation made in each of them bears a just proportion to the valuation made in the others,

and increase or decrease, if necessary, the amount of the valuation entered on the roll of each of such municipalities, by any rate per cent which it deems requisite to establish a just proportion between all the valuation rolls made in the county municipality.

Nevertheless, the county council cannot in any way reduce the total amount of all the valuation rolls made in the county municipality, and forwarded to its office.

The valuation roll so amended serves only for county purposes.

741. When a copy of a new valuation roll is forwarded to the office of the county council, after the examination made in virtue of the preceding article, the county council must, within thirty days thereafter, take communication of the new roll, and, if necessary, proportion the amount of the valuation thereof to the amount set forth in the rolls of the other local municipalities of the county, in conformity with the rule laid down in the preceding article, without, however, diminishing or increasing the several amounts of the valuation rolls in force in the other municipalities.

742. Every valuation roll comes into force as amended, if it has been amended within the time prescribed, notwithstanding any appeal pending before the county council, in virtue of article 927, for local purposes, from the expiration of the thirty days mentioned in article 734, and for county purposes, from the expiration of the delay during which the county council could take communication thereof.

The default of the county council to comply with the provisions of articles 740 and 741, does not prevent the valuation rolls from coming into force for county purposes.

743. (*As amended by 35 Vic., c. 8, s. 4.*) It remains in force until a new valuation roll, made in accordance

with the provisions of this title, comes into effect; and during such time it serves as a basis for all taxes, rates, apportionments in money, labor, or materials imposed in virtue of municipal by-laws, *procès-verbaux*, or acts of apportionment, as well as for any real property qualification, excepting that of local councillor, and for the payment of all municipal debts, except in special cases otherwise provided by the provisions of the code. (1)

CHAPTER FOURTH.

GENERAL PROVISIONS.

744. (*Repealed by 35 Vic., c. 8, s. 12.*)

745. The owners or occupants of taxable real estate, or of property declared taxable by article 710,

(1) **HELD:**—That according to the electoral act of 1875, 1o The valuation roll is conclusive as regards the value of the property; 2o No person can be on the list of voters if he is not on the roll; 3o That all persons who appear qualified by the roll must be on the list, except in cases of personal disqualification which cannot appear on the roll.

The municipal code teaches the manner of attacking the valuation roll; and in a collateral proceeding, as the contestation of electoral lists, a new contestation cannot be raised on what has been finally decided touching such roll.

The secretary-treasurer has no right to correct the valuation roll. This roll is his only guide.

The date of the qualification of a voter is that of the list, and it is when the list is being made by the secretary-treasurer that the qualification must exist and appear in the roll.

A and B possess jointly and by equal shares a property valued by the roll to \$200 or \$300, neither one nor the other ought to be put on the list. In the same way, if A and B are both and equally tenants of a property for which they pay annually, according to the roll, \$20. or \$30., neither one nor the other can be placed on the list. In the first case, to allow both to vote, the property should be valued at \$400 at least.

In the second case, to give a vote to both, the rent must be of at least \$40. But if A and B possess together a property of \$300, but A for one third and B for two thirds, B will vote, but not A. The same rule will apply to rents. *In re LES LISTES ELECTORALES DU COMTÉ DE KAMOURASKA*, III Quebec Law Rep. 308.

are bound, in so far as it lies in their power, to give all the information applied for by the valuers, and to answer truly the questions put to them by the valuers relative to the value of their properties, and upon their refusal to give such information or to answer such questions truly, such owners or occupants incur a penalty of not less than five or more than eight dollars.

746. (*As amended by 45 Vic., c. 35, s. 23.*) After every change of owner or occupant of any land set forth in the valuation roll in force, the local council, on a written petition to that end, and after sufficient proof, shall erase the name of the former owner or occupant, and inscribe on such roll the name of the new one, as well as the name of every tenant of any lot, appearing in the valuation roll.

746a. (*Added by 35 Vic., c. 8, s. 5, and as amended by 41-42 Vic., c. 11, s. 28.*) The local council shall in the months of June or July, in any year in which a new valuation roll is not made, revise and amend the valuation roll in force, for local purposes only, by complying with the formalities prescribed by articles 736, 737 and 738.

The amendments so made to the valuation roll come at once into force, subject, nevertheless, to the appeal of the county council under article 927. (1)

(1) **HELD:**—1o That the perception roll for school purposes is not affected by the nullity of the municipal valuation roll.

2o That the right which a municipal council has of amending a valuation roll, implies that of changing and modifying it, and even of making a new roll.

3o That the duty imposed upon municipal councils having a valuation roll made every three years, does not prevent making one before the expiration of this delay. — *LES COMMISSAIRES D'ÉCOLES DU VILLAGE D'HOCHELAGA & HUDON & AL., X Revue Légale*, p. 113. (But see decision in *Morgan & Côté* below).

HELD:—That the right which a municipal council has of amending a valuation roll, does not imply that of making a new one, and a new one can be made only every three years;—that the duty imposed upon municipal corporations of having a valuation

747. Whenever the valuation roll has been set aside under article 100, the former revives and avails until a new valuation roll comes into force.

TITLE THIRD.

OF MUNICIPAL ROADS.

CHAPTER FIRST.

General Provisions.

748. All roads which lead solely to the landing stations of iron or wooden railways, to ferries or to pay-bridges, and all public roads, except those mentioned in article 751, are under the control of municipal corporations, and are made and maintained in conformity with the provisions of this code.

749. Land or passages used as roads by the mere permission of the owner or occupant, are municipal roads, if they are fenced on either side or otherwise divided off from the remaining land, and are not habitually kept closed at their extremities, but the property in the land and the obligation to maintain such roads, continue in all cases vested in the owner or occupant.

The council or the board of delegates who have the management of such roads, may, by resolution, order the owner or occupant to close the same by means of fences or gates, under a penalty of twenty dollars for each day he may neglect or refuse to execute such order.

750. If they are fenced on either side, or otherwise divided off from the remaining land, and are not

roll made every three years, does not give them power of making one before the expiration of this delay.—MORGAN & AL & COTT & AL, III Legal News, p. 225. (Sir A. A. Dorion and Tessier J. dissenting.)

habitually kept closed at their extremities, they are municipal roads; but the property in the land and the obligation to maintain such roads continue vested in the owner or occupant.

The council, or the board of delegates who have the management of such roads, may order the owner or occupant to close the same by means of fences or gates, under a penalty of twenty dollars for each day he may neglect or refuse to execute such order.

751. Public roads, under the control of the federal or provincial government, and turnpike roads, governed under letters patent or special acts, or under chapter seventy of the consolidated statutes for Lower Canada, do not fall under the control of the municipal corporations.

752. The ground occupied by any municipal road belongs to the municipal corporation under whose control it is placed, and cannot be in any manner alienated, so long as it is employed for such purpose.

This article does not apply to the ground of a road which leads solely to a ferry, or pay-bridge, and which is maintained at the expense of the proprietors of such ferry or pay-bridge.

753. (*As amended by 41-42 Vic., c. 11, s. 29.*) Every part of the land of a discontinued road, returns by right to the land from which it had been detached, and is at the charge of the occupant of such land.

If the land of the discontinued road has not been taken from the neighboring lots, it returns by right, to the lands between which it is situated, in the proportion of one half to each.

Nevertheless if one of the proprietors whose property borders upon the discontinued road, gives the ground or a part thereof required for the new road, property of the former road is vested in him proportionately to the extent of land given by him towards the new road.

Parties who have shares of fencing along the discontinued road, shall have the right of removing such fencing, within fifteen days from the closing of the road.

754. Municipal roads are either local roads or county roads.

755. (*As amended by 45 Vic., c. 35, s. 24.*) Until otherwise provided in virtue of articles 758 or 759.—

1. Every municipal road, or every part thereof, wholly situate in one local municipality, is a local road ;

2. Every municipal road or every part thereof, lying between two local municipalities, or partly in one local municipality and partly in another, is a county road ; and if such road or part of a road lies between two local municipalities which form part of two county municipalities, it is the road of such two county municipalities.

756. Every municipal road known, at the time of the coming into force of this code, either as a local or a county road, continues to be so known and to be governed as such, until the contrary is provided under the authority of this code.

757. Municipal roads are under the control of the corporation of the municipalities to which they belong. If they are the roads of several county municipalities they are, under joint control of the corporation of such county municipalities, represented by the board of delegates. (1)

(1) **HELD** :—That a county municipality who declares county road one which was local up to then, becomes responsible of its repairs, and on default of such municipality to keep it or have it kept in good order, it is liable to the fine imposed by the law.—*HUOT vs. LA CORPORATION DU COMTÉ DE MONTMORENCY*, II *Lower Canada Rep.*, 253.

HELD :—No action for a *quantum meruit* lies against a muni-

758. The county council may, by resolution or in a *procès-verbal*, declare :

1. That any road under the control of a local corporation of the county municipality, be for the future a county road ; or

2. That any county road under the exclusive control of the corporation of the county, be for the future a local road under the control of the corporation of the local municipality in which it is situate, or which it separates from any other municipality. (1)

759. The board of delegates may also, by resolution or in a *procès-verbal*, declare :

1. That any local road situate within the limits of the county municipalities whereof it represents the corporations, be for the future a county road under the joint control of such county corporations ; or

2. That any county road under the exclusive control of one of the county corporations which it represents, be for the future under the joint control of all such county corporations ; or

3. That any road under the joint control of the

cipal corporation for road.—*BOUTELLE VS THE CORPORATION OF THE VILLAGE OF DANVILLE*, VI *Revue Légale*, p. 2.

It is the duty of municipal corporations to keep or cause to be kept in repair, all local roads subject to their control, including roads leading to, and established for the benefit of the inhabitants of another municipality. And the by-roads to be kept in repair by the inhabitants of the range to which they lead from any other range, are the by-roads leading from one range to another in the same municipality.—*DUBOIS VS THE CORPORATION OF STE. CROIX*, *Quebec Law Rep.*, p. 313.

(1) **HELD** :—1o That the declaration authorized by art. 758, M. C., to make county road a local road, or *vice-versa*, must be published under art. 761 only in the municipalities interested by the *procès-verbal*,—2o that a designation of the taxable real estate in a *procès-verbal* by referring to the successive numbers of the valuation roll indicating such real estate is legal and regular —*McEVILLA VS LA CORPORATION DU COMTÉ DE BAGOT*, VII *Revue Légale*, 360.

county corporations which it represents be for the future a county road under the exclusive control of one only of such county corporations, or a local road under the control of the corporation of the local municipality in which it lies or which it divides from another municipality.

760. From the date of any declaration made under either of the two preceding articles, the work to be performed on any road, with respect to which the resolution has been passed, is either at the sole charge of the rate-payers of the municipality or municipalities, whereof the corporations have the control of the road, and who are liable for such work by the *procès-verbaux*, or by law, or at the sole charge of the corporation as the case may be.

761. The declaration mentioned in articles 758 and 759, cannot be made until after a public notice to that end has been given, and they must be published immediately after the passing thereof. (1)

762. The powers conferred by articles 758 and 759, on the county council and the board of delegates, may be also exercised by them in regard of any road to be made, in the same manner as for roads already made. (2)

(1) **Held** :—That the declaration authorized by art. 758 of the municipal code to make county road a local road, or *vice-versa*, must be published under art. 761 only in the municipalities interested by the *procès-verbal*.

That a designation of the taxable real estate in a *procès-verbal* referring to the successive numbers of the valuation roll indicating such real estate is legal and regular.—*McEVILLA vs LA CORPORATION DU COMTÉ DE BAGOT*, VII *Revue Légale*, 360.

(2) **Held** :—That the road in question in this cause, being a local road, had not been legally established by the county council.

That the order of the county council that the road in question

762a. (*Added by 36 Vic., c. 21, s. 21.*) Any by-law or *procès-verbal* made to close a road leading into or from any neighboring local municipality, or for diverting such road at a point where it leads into or from such municipality, has no force or effect until approved of by a resolution of the county council, carried in the affirmative by two-thirds of the members composing such council.

If the neighboring local municipality forms part of another county municipality, the by-law or *procès-verbal* must be approved of by a resolution of the board of delegates of such county municipalities, carried in the affirmative by two-thirds of the members composing the board of delegates.

763. All county or local municipal roads are either front roads or by-roads.

Front roads are those whose general course is across the lots in any range, and which do not lead from one range to another in front or in rear thereof.

All other municipal roads are by-roads.

764. A front road passing between two ranges is the front road of both ranges, unless such road be by resolution of the council, or of the board of delegates, under whose jurisdiction it is situate, declared to be the front road of one of such ranges.

765. The front road of a lot includes every portion of such road which crosses such lot throughout

should be a local work, is inoperative, for want of the notice and publication required by law.

That even if the said road had been legally established the local council could not be ordered to make it within three months, under a penalty of \$1000, as was done by the judgment under review.

That the *procès-verbal* was, as to certain particulars, too vague to admit of its being enforced by a mandamus.—BOTHWELL vs CORPORATION OF WEST WICKHAM, XXIV L. C. J., 45

its breadth, or upon which such lot borders at one or other of its extremities.

Whenever a road is the front road of two ranges, the exact half of such road adjacent to each lot, is the front road of such lot.

Roads in village municipalities are front roads unless otherwise ordered by the council.

766. Any *procès-verbal*, or any by-law respecting municipal roads, may declare that any new road, or any road already designated or recognized as a by-road, be for the future a front road, or that any new road, or any road already designated or recognized as a front road, be for the future a front road.

Every declaration constituting any road whatsoever a front road must, at the same time, set forth the land of which such road is the front road.

767. Every village council owns the land acquired or reserved for streets and squares, and may, on opening up such streets, deviate from the plan, by giving the land marked out in such plan in compensation for that which has been in its place, the provisions of title eight of the book to the contrary notwithstanding

768. Every front road must be at least thirty-six feet, and every by-road at least twenty-six feet, French measure, in width, between the fences on each side thereof.

769. The roads may be wider than this article prescribes, if it is so ordered by the acts which govern them.

Municipal roads, existing at the time of the coming into force of this code, may retain the breadth which they have at such time, although such breadth be less than that required by the law under which such roads were established.

770. Every front road which is declared to be a by-road, or every by-road which is declared to be a front road, may retain its original width, if previous to such declaration it possessed the width required by law.

771. Every road must have, if it require it, on each side thereof, a ditch properly constructed and having sufficient width and fall to carry off the water of the road and of the adjoining lands, and as many small drains as are necessary, communicating from one ditch to the other.

772. If, in order to convey the water from off any road, it is necessary to make any water-course upon the lands bordering upon such road, such water-course is regulated by a *procès-verbal* drawn up in accordance with the provisions of article 884, and is constructed and kept in repair either by the persons liable for road work upon such road, or at their expense, or by the owners or occupants of the lands, the waters whereof pass off or should pass off by such water-course, according as it is provided in the *procès-verbal*.

773. Ditches, small drains and bridges of less than eight feet span form part of the municipal roads on which they are situated.

Pits, precipices, deep waters and other dangerous places, which must be filled up or protected in such a manner as to prevent accidents, form also part of the roads on which they are situated.

774. The fences which separate any front road from any land are at the costs and charges of the owner or occupant of such land, when the same are necessary.

775. (As amended by 41-42 Vic., c. 10, s. 30.) Upon any road which runs along the line of any land, one-

half of the fence which separates such road from the land, forms part of the work to be done upon such road.

But if a by-road divides a piece of land into two portions, the owner of such piece of land is not obliged to put up more fences along such by-road than he was before the establishment thereof. The remainder of the fencing forms part of the work on the by-road.

The portions of the fences to be made on such by-roads in default of provision therefor in any *procès-verbal* or by-law, as the case may be, are determined by the road inspector, in such a manner that the position of the neighboring proprietor be not more onerous than it was before the establishment of the road.

776. Every fence required on any municipal road must be well made, and kept in good order according to law.

777. Fords form part of the municipal roads with which they are connected. If a ford unites two different roads, one half of the ford forms part of the road to which it is adjacent.

They must be marked out with guide poles, and kept at all times free from loose stones and other impediments; and the bottom thereof must be kept as smooth and even as practicable.

778. Noxious weeds, such as daisies, thistles, wild endive, chicory, celandine and plants considered as such, which grow upon municipal roads, must be cut down and destroyed between the twentieth day of June and the first day of August in each year, by the persons who are bound to keep the roads upon which they are found in repair.

779. The work, ordered by the law, and by *procès-verbal* or by-law as the case may be, necessary for

constructing, improving and keeping in repair any municipal road is performed :

1. Either by the persons who are liable therefor, under the *procès-verbaux* or the by-laws which regulate such road, or in default of *procès-verbaux*, or by-laws under the provisions of the law ;

2. Or, by the corporation of the local municipality, if a by-law has been passed in virtue of article 535, or in any other case in which it is laid down in the by-law which orders such work, and that the same must be performed by the corporation.

780. Crown lands are not subject to contribute work upon municipal roads ; and the front roads of such lands are made and maintained as by-roads.

Nevertheless, the occupants of crown lands, whether under or without location tickets, are liable for the work on front roads or by-roads which appertain to such lands, in the same manner as a proprietor of any other land.

781. Whenever any lot or piece of land has been divided between several owners or occupants, after the passing of a by-law or the completion of a *procès-verbal*, in virtue of which such lot or place of land is liable for work upon any municipal road, all the owners or occupants of the lot or piece of land so divided are jointly and severally liable, saving to each his recourse against the others in proportion to the value of the land occupied, for the works ordered by the *procès-verbal* or by-law, until otherwise regulated by a subsequent *procès-verbal* or by-law, according as such works are regulated by *procès-verbal* or by by-law.

782. No rate-payer, of any local municipality, is liable for work on any road situated within any neighboring local municipality, unless such road be a county road.

783. (*As replaced by 45 Vic., c. 35, s. 24.*) The works on any by-road, to be performed by the labor of the persons liable for such works, are divided in proportion to the value of the land by reason whereof such persons are liable for the road.

784. All works upon municipal roads are executed in the manner prescribed by the provisions of this code, and by the *procès-verbaux*, or by the by-laws or orders of the council, respecting the same. (1)

785. All works ordered to be done upon county or local roads and upon side-walks, are executed either under the superintendence and control of the inspector of the road division in which such roads or side-walks are situated, or under the superintendence and control of a special officer appointed for such purpose, by *procès-verbal* or otherwise, by the council or by the board of delegates having the control of such roads or side-walks.

Such special officer is invested with the same authority, subject to the same obligations, and liable to the same penalties, as the road inspectors, in regard of the road or side-walk work for which he is appointed.

786. The work of building, improving, or keeping municipal roads in repair, may be performed by contract, awarded and entered into, in accordance with the rules laid down in articles 892 to 901, both inclusive, if it is so ordered by the *procès-verbaux* or by the by-laws, which regulate the same, or by the council.

787. Repairs made on municipal roads at the expense of the corporation, may be given and awarded

(1) **Held:**—That a municipal corporation is bound to indemnify for all damages resulting from the bad condition of its roads. GAUDET VS LA CORPORATION DU TOWNSHIP DE CHESTER OUEST, I *Revue Légale*, 75.

in the manner and at the time prescribed in article 828.

788. Every municipal road must be at all times kept in good order, free from holes, cavities, ruts, slopes, stones, incumbrances, or impediments whatsoever, with hand-rails at dangerous places, in such a manner as to permit of the free passage of vehicles of every description, both by day and night, except in the case of article 389.

The side-walks must be also kept in good repair, free from all obstacles and impediments whatsoever, with hand-rails at dangerous places.

789. (*As amended by 39 Vic., c. 29, s. 10.*) Every person bound to supply materials or perform work upon municipal roads, or upon side-walks, is in default to fulfil such obligations, from the time when the by-law, resolutions, *procès-verbaux*, or acts of apportionment, prescribing the performance of such work or the supplying of such materials, come into force, without any special or public notice being requisite, except in the case of work to be performed in common.

Persons liable to perform work required by the provisions of the law, are always in default to perform such work.

790. If the work has been given out by contract, the contractor is liable to the same obligations and penalties as the persons or corporations liable for the work for which he has contracted, and he is their surety for all damages, penalties and costs, which they may be called upon to pay, in default of the work being executed.

791. Every person bound to perform, on municipal roads or side-walks, work required by the provisions of the law, and of the *procès-verbaux*, or by-laws which regulate such roads or side-walks, is responsible for all damages resulting from the non-execution of such work in favor of the parties interested, or of the corporation, or of any municipal officer, when such damages have been exacted from them, and is further, liable to a penalty of from one to four dollars for each day that he refuses or neglects to perform such work.

792. Every person who, without reason or authority, cuts, mutilates, or injures any trees planted or preserved for ornament on any municipal road, or any posts, inscriptions, works, or articles forming part of, or connected with any municipal road, is responsible for all damages occasioned thereby, and further incurs a penalty of not less than two nor more than five dollars.

793. (*As amended by 45 Vic., c. 35, s. 26.*) Every corporation is bound to maintain the roads and sidewalks under its control, in the condition required by law, by the *procès-verbaux* and by the by-laws, which regulate them, under a penalty not exceeding twenty dollars for each infraction thereof.

Such corporation is further responsible for all damages resulting from the non-execution of such *procès-verbaux*, by-laws or provisions of law, saving its recourse against the officers or rate-payers in default.

If the road is under the control of several county corporations, such corporations are jointly and severally bound to maintain such road in the required condition, under the same penalty and responsibility. (1)

But no such suit shall be taken against any such corporation, without at least ten days' notice of such suit being given in writing to the secretary-treasurer of the corporation.

If the suit is taken in the name of a person who is not a ratepayer of the municipality he shall deposit the sum of ten dollars with the clerk of the court on the issue of the summons to guarantee costs.

(1) **Held:**—1o. That according to art. 793, a municipal corporation is liable to a fine if it neglects to have the roads and bridges kept in the state of repairs required by law, or by by-laws, or by *procès-verbaux*;—2o. That this obligation imposed by art. 793, M. C. is a duty of inspection and is not limited to the case where a by-law has been made according to art. 535;—3o. That when a bridge built by the government on a river situate in the municipality, has been carried away by the waters, the corporation is not liable to a fine for not having rebuilt it;—4o. *Semble* that if the bridge had been built in virtue of a resolution of the municipal authorities, and when built, had been destroyed, the corporation would be guilty of negligence in not rebuilding it. —**CHIGNÈRE**

794. (*As amended by 36 Vic. c. 21, s. 24.*) Every local council, whenever a by-law or resolution is passed in virtue of articles 526 or 527, or every municipal council, whenever a petition has been laid before it by one or more persons interested in the construction opening, widening, alteration, divergence, or keeping in repair of any road which either is or ought to be under its control, praying that the work be performed upon such road, be settled and determined, must, without delay :

1. Call together, at one of its sittings, by public notice, the rate-payers interested in the projected work, and if, after giving them a hearing, the council is of opinion that such work should be performed, make a by-law to settle, determine and apportion the work on such road ; or

2. Appoint, without delay, a special superintendent, whose duty it shall be to visit the places mentioned in the by-law, resolution, or to report to the council and to

vs. LA CORPORATION DU TOWNSHIP DE CHERTSEY, V Revue Légale 285.

HELD :-That in a suit for a penalty against a corporation for having neglected to repair the roads, it is not necessary to allege in the declaration that the roads in question are situated in the municipality of the parish and under the control of the defendant, when the plaintiff indicates in what parish is situated the portion of the road he alleges to have been in bad order. — That municipal corporations are liable to the fine imposed by art. 793, M. C., for the bad state in which is a municipal road of which the repair belongs to the rate-payers, even in the absence of the report of the inspector required by art. 399, M. C. and of the by-law required by art. 535, and that it is not necessary that an action for the recovery of the fine be directed against the proprietor.—*PARÉ vs. LA CORPORATION DE ST. CLÉMENT, V Revue Légale, 428.*

It is the duty of municipal corporations to keep, or cause to be kept in repair all local roads subject to their control, including roads leading to and established for the benefit of the inhabitants of another municipality ; and by-roads to be kept in repair by the inhabitants of the range to which they lead from any other range, are the by-roads leading from one range to another *in the same municipality*.—*DUBOIS vs. THE CORPORATION OF STE. CROIX, I Quebec Law Rep., p. 313.*

draw up a *procès-verbal* if necessary, within the delay which the council shall fix. (1)

795. Any rate-payer may be made liable for any work on a front road or by-road, by a *procès-verbal* or a by-law made under and by virtue of the article 794, in proportion to the property he holds or occupies, subject nevertheless to the proviso contained in the article 782.

CHAPTER SECOND.

MODE OF DRAWING UP A *procès-verbal* AND THE ACT OF APPORTIONMENT WHICH RELATES THERETO.

SECTION I.

Of the Procès-Verbal.

796. The special superintendent must convene, hold and preside over a public meeting of the rate-payers interested in the proposed work, on the day, and at the hour and place, which he has fixed, and whereof he has given public notice.

(1) **HELD:**—That in the case of a petition from the rate-payers of a municipality, praying for the action of the council touching the nomination of a superintendent to make report on the opening or repairing of a road, those who in the appeal from the decision of the board of delegates are called Respondents by the Municipal Code, must be the petitioners named at the foot of the petition, and not the corporation who by its council has appointed the superintendent.—*CORPORATION DE LA PAROISSE DE ST. ALEXANDRE vs. MAILLOUX*, VII *Revue Légale*, 417.

HELD:—That the publication of the notices of the meeting by the special superintendent under art. 794 should be attested by a certificate under oath, either written on the original notice or annexed to it, and parol proof at the trial is not sufficient.—*CANTWELL vs. THE CORPORATION OF THE COUNTY OF CHATEAUGUAY et al.*, XXIII L. C. J. 263, § 3.

Every rate-payer interested and present at such meeting is entitled to be heard.

797. If the special superintendent is of opinion that the work in question should not be undertaken, he mentions in his report the reasons for such opinion. If, on the contrary, he is of opinion that such work should be performed, he draws up a *procès-verbal* in accordance with the provisions of this section.

798. The council, at the expiration of the delay within which such report should be made, in the event of its not having been made, or after having received the report of the special superintendent, whenever the latter is of opinion that the work should not be undertaken, may either provide such officer with new instructions and order him to prepare, within a fixed delay, a *procès-verbal* in accordance with the provisions of this section, or appoint another special superintendent in his stead.

799. Every *procès-verbal* must indicate :

1. The situation and description of the work to which it relates ;
2. The work to be performed and the delay within which it must be performed ;
3. The taxable property of the owners or occupants bound to perform work or to contribute to its performance ;
4. The proportion of work to be performed by each rate-payer, if the nature of the work admits of it, whenever the work must be done by the rate-payers themselves ;
5. The person, under whose superintendence such work must be executed.

800. If a front road is in question, and if all the work upon such road be imposed upon the owners or

occupants of the lots fronting on such road, the indication of such lots in the *procès-verbal* is not required.

801. If any front road is in question, and that owing to peculiar circumstances, the work to be done upon such road by any owner or occupant, exceeds by more than one-half, the average of the work to be done upon the same road by owners of lands of equal value, such owner or occupant, may be, in and by the *procès-verbal*, exempted from a part of the work upon or of the cost of such road; and such part of the road, described in the *procès-verbal* is considered as a by-road.

802. It may be further ordered by any *procès-verbal*:

1. That every bridge or other work forming part of the works upon a road, be constructed of stone, brick or other material, of certain dimensions, and according to plans and specifications annexed to the *procès-verbal*, and which may be amended by the proper council or board of delegates;

2. That fences, hand-rails and other protections be placed at the side of any road where it passes near or borders upon any precipice, ravine, or other dangerous place;

3. That any part of a road through a swamp, or wet ground be made in whole or in part with fascines or pieces of square timber, according to the mode of construction determined upon;

4. That any road be or be not raised in the middle;

5. That any specified kind of materials be or be not used in making or repairing such work;

6. That, if a road pass through uncleared land, the timber on each side of the road be cut down by the owner or occupant of such land or by the persons bound to perform the road work, for the space of twenty feet from each fence, unless such trees are

fruit trees, or maple or plane trees forming part of a maple grove, or are reserved for ornament to a property ;

7. That the work be performable from the date of the coming into force of such *procès-verbal*, without it being necessary to draw up a deed of apportionment ;

8. That works of building or repairing be not performed by the rate-payers themselves, but be done by contract at their expense, and that for such purpose they be, after public notice, adjudged publicly at auction to the last and lowest bidder offering sufficient security for the execution of the same.

803. Every *procès-verbal* may in addition determine the general mode of constructing or repairing the road and works connected therewith.

804. The special superintendent must deposit the *procès-verbal* and report drawn up by him, in the office of the council by which he was appointed, within the delay fixed by article 794, or by the council in the case of article 798.

805. (*As amended by 36 Vic., c. 21, s. 25.*) If it appears to the secretary-treasurer of the council, at the office of which such *procès-verbal* and report have been deposited, that the work to be performed is work falling within the jurisdiction of another council, he must transmit without delay, the *procès-verbal* and all the proceedings connected therewith, to the office of the council to which they belong, for examination and homologation by such council, or by the board of delegates as the case may be.

If the work in question comes under the jurisdiction of more than one county corporation, the *procès-verbal* and proceedings connected therewith, must be transmitted to the office of the council of the county municipality in which the work was originally proposed, to be afterwards submitted to the board of delegates of the counties interested.

806. (As amended by 36 Vic., c. 21, s. 26.) The council or the board of delegates concerned, may, at any time, after the deposit of the *procès-verbal* has been made at the office of the council under either of the two preceding articles, homologate such *procès-verbal*, with or without amendments, or reject the same, provided that public notice has been given by the secretary-treasurer of the council or by the secretary of the board of delegates, to the parties interested, of the time and place at which the examination of such *procès-verbal* is to commence.

Every person interested is entitled to be heard by the council or by the board of delegates, at the time appointed for the consideration of such *procès-verbal*.

807. The municipal council or the board of delegates in any decision on the merits of a *procès-verbal*, may tax the costs of the proceedings, and cause them to be paid by the parties interested, by the corporation, or by any other person in its discretion.

In the absence of a decision by the council or by the board of delegates, the costs incurred may be recovered from the corporation, under the direction of which the special superintendent acted, saving its recourse against the petitioners who demanded the *procès-verbal*.

In case of refusal, such costs may be recovered in the same manner as penalties imposed by the provisions of this code.

808. The secretary-treasurer of the council or the secretary of the board of delegates is bound without delay to give public notice of the homologation of any *procès-verbal* made under the provisions of this section.

809. Every *procès-verbal* comes into force at the expiration of the fifteen days which follow the public notice given, in virtue of the preceding article, unless an appeal has been taken in which case the *procès-verbal*

comes into force from the date of the final decision of the county council, or of the court before which the appeal has been brought.

809a. (*Added by 41 Vic., c. 18, s. 28.*) If the work or works ordered to be performed by *procès-verbal* or by a by-law in force, become demolished, ruinous or likely to fall from old age, they may be repaired or rebuilt under such *procès-verbal* or by-law, by observing the formalities prescribed therein or with modifications made by the council if it has amended such *procès-verbal* or by-law.

However, the rebuilding or repairing of such work or works can only be ordered by the council, on the report of an officer of the municipality, establishing that it is necessary to perform such work.

810. (*As amended by 39 Vic., c. 29, s. 11.*) Every *procès-verbal* in force, may at any time, be amended or repealed by another *procès-verbal* drawn up in the same manner, on petition by the parties interested or under order of the council.

810a. (*Added by 41 Vic., c. 18, s. 29 and as amended by 45 Vic., c. 35, s. 27.*) Every *procès-verbal* in force may, at any time, be amended by the council, by by-law, on petition of one or more interested parties or on the order of the council, provided that public notice be given by the secretary-treasurer of the council or by the secretary of the board of delegates, to the parties interested, of the place where, and the time when the examination of the *procès-verbal* shall be begun.

811. Any person may be declared liable for work upon any front road or by-road, under any *procès-verbal*, by reason of the taxable property which he owns or occupies, subject to the application of article 782.

812. If the *procès verbal* does not dispense with the making of an act of apportionment, the work required

by such *procès-verbal* need not be performed by the rate-payers, until an act of apportionment has been drawn up and comes into force.

813. A copy of any *procès-verbal* homologated by a county council or a board of delegates, must be transmitted without delay to the office of the council of each local municipality, in which the road, governed by such *procès-verbal*, is situated either in whole or in part.

SECTION II.

Of the Act of Apportionment.

814. Within thirty days next after the coming into force of any *procès-verbal*, the special superintendent must draw up and file at the office of the council in which the *procès-verbal* is deposited, an act of apportionment of the work to be done under such *procès-verbal*, unless an express provision of the *procès-verbal* dispenses with the same.

815. Every act of apportionment must indicate :

1. The work and the *procès-verbal* to which it relates ;
2. The work to be done ;
3. The taxable property, by the owners or occupants of which such work must be executed ;
4. The proportion of the work which must be done by each of them ;
5. The amount of the contribution which must be given by them in money, labor or materials ;
6. The place and time in which, and the officers to whom such contribution must be delivered.

816. If the special superintendent has not drawn up and filed the act of apportionment within the delay

prescribed by article 814, the council, in the office of which such act should have been filed, may order such special superintendent or any other person to draw up or file the same within the fixed delay.

816a. (*Added by 41 Vic., c. 18, s. 30.*) Whenever the council shall so order, a new act of apportionment may be made of the works ordered under an old *procès-verbal*, if the repair or rebuilding ordered by such *procès-verbal*, is in question.

817. That act of apportionment comes into force fifteen days after it has been filed in the office of the council provided that public notice of the filing thereof has been given within such delay.

818. Every act of apportionment is annexed to the *procès-verbal* to which it relates.

In the case of article 813, a copy thereof must be transmitted without delay to the office of the council of each local municipality, in which the road is situated either in whole or in part.

819. The council, in the office whereof an act of apportionment is filed may amend such act on the petition of any rate payer or road officer, after having given public notice to the parties interested, of the place, day and hour in which the consideration of the petition and the amendment of the act of apportionment are to be proceeded with, and after having heard any interested party who desires to be heard.

Every amendment to an act of apportionment comes into force fifteen days after the passing thereof, except in the case of an appeal, in which case the act of apportionment comes into force from the date of the final decision of the county council or of the court before which the appeal has been brought.

820. No provision of any act of apportionment can be inconsistent with those of the *procès-verbal* to which it relates.

SECTION III.

General Provisions.

821. The contribution of each person liable for work on roads, in virtue of any *procès-verbal* or act of apportionment, is based upon the value of the taxable property, by reason of which he is liable therefor, as fixed by the valuation roll in force, if there is one, and if there is not, then, according to the valuation made by the special superintendent himself, saving the case mentioned in article 783.

CHAPTER THIRD.OF PERSONS LIABLE FOR WORK ON ROADS IN THE
ABSENCE OF A PROCÈS-VERBAL OR BY-LAW.

SECTION I.*General Provisions.*

822. The provisions of this chapter are only applicable when there is no *procès-verbal* or by-law establishing by whom the work on municipal roads must be performed. (1)

823. The burden of proving that any municipal road is not subject to the provisions of this chapter, is always upon the party claiming the exemption.

(1) An indictment will lie against the corporation of a rural municipality for non-repair of a highway, although it is a front road of which each proprietor is bound to repair his frontage.

In such case where the corporation, after conviction, causes the road to be repaired, a merely nominal fine will be imposed, and costs will not be awarded in favor of the private prosecutor.—THE QUEEN vs. THE CORPORATION OF THE PARISH OF ST. SAUVEUR OF QUEBEC, III *Quebec Law Rep.*, 283.

SECTION II.

Of Front Roads.

824. The front road of each lot is kept in repair by the owner or occupant of such lot.

If a lot is possessed or occupied in portions, by two or more persons, such owner or occupants are jointly and severally liable for the work to be done on the whole of the front road of such lot, even in the case when the part of the lot possessed or occupied by them does not border upon the road, saving their recourse against each other in proportion to the value of the land occupied by each of them.

825. No one is bound to keep in repair on one and the same parcel of land, in a depth of thirty arpents, more than one front road governed by the provisions of this chapter.

If there be more than one front road on any piece of land of such depth, to be kept in repair, in accordance with the provisions of this chapter, the council must declare which of such roads is to be kept in repair by the proprietor or occupant of the lot; and the other front roads are treated as by-roads.

In default of such declaration, the proprietor or occupant is only liable for work upon the road in nearest proximity to his residence.

SECTION III.*Of By-Roads.*

826. The work of keeping by-roads leading from one range to another in repair, is performed by the proprietors or occupants of the taxable property in the range to which such by-roads lead from any older range.

827. Repairs to be done on such by-roads are not performed by the labor of the parties bound to maintain

the same, but by contribution, in money levied by the road inspector, on the taxable property by reason whereof such parties are liable for such repairs, by means of an act of apportionment made by such officer, according to the rule prescribed by article 821 and approved by resolution of the council.

828. (*As amended by 41 Vic., c. 18, s. 31.*) Such work, every year, is publicly given out by the inspector of roads, after public notice, to the lowest tenderer, during the month of October for the period included between the first day of November, and the thirtieth day of April inclusively, and in the month of April for the period included between the first day of May and the thirty-first day of October inclusively, who offers satisfactory security for the execution of such work.

The council may by resolution order that such work shall be given out by the road inspector for the period of one year, in the same manner and under the same conditions as in the preceding article.

The public notice required by the foregoing paragraphs may be either in writing or verbally, and will apply in the case of by-roads regulated by *procès-verbal*.

829. All works on by-roads, leading exclusively to ferries, or toll-bridges, are made by the owners or occupants of such ferries or toll-bridges.

830. The work on any other by-road is done at the expense of the corporation of the municipality.

CHAPTER FOURTH.

OF WINTER ROADS.

SECTION I.

General Provisions.

831. Winter roads are laid out and kept in repair in accordance with the rules contained in this chapter.

832. Winter roads are laid out before the first day of December in each year, in the places fixed by the road inspector of the division, in accordance always with the orders of the council, if the council see fit to give orders thereon.

The line thereof is marked by means of balizes of spruce, cedar or other wood, of at least eight feet in height, fixed on the ground at each side of the road, at a distance of not more than thirty-six feet one from the other on each line: if the road is laid down with two tracks, a row of balizes must be fixed in a similar manner between the two tracks.

Front roads are laid out by the persons who are liable for work on such roads, and by-roads by the road inspector of the division.

833. The council of every corporation, under the control of which any road whatsoever falls, may, by resolution, order that such road be during the winter laid out and kept in repair as a double road, one track thereof to be for vehicles going in one direction, and the other track for vehicles going in the opposite direction.

In default of an order of the council, under the preceding provision, a double track of twenty-five feet in length, at distances not more than four acres from one another, must be made and maintained on every municipal winter road.

834. Every person placing balizes on a summer road after the road which must be substituted therefor in winter has been laid out beyond the limits of such road, or displacing balizes already placed, incurs a penalty not exceeding eight dollars.

835. (*As amended by 35 Vic., c. 8, s. 11 and as amended by 45 Vic., c. 35, s. 28.*) No winter road, if there is a single track, must be less than seven feet in

width, between the two rows of balizes. If it is a double road, each track must be at least five feet in width (1).

It shall however be always lawful for municipal councils to make and enact by-laws, providing that winter roads be laid out and maintained at a lesser or greater width than seven feet.

836. (*As amended by 36 Vic., c. 21, s. 27, and by 39 Vic., c. 29, s. 12.*) Every owner or occupant of land, situated upon any front road, and all the persons interested in by-roads must, unless it is otherwise provided for by the local council in virtue of article 541, or unless he has been exempted from doing so by the road inspector or the council, between the first day of December in each year and the first day of April following, keep all the fences erected by the side of such road, and all the fences forming an angle with those along the road, to a distance of twenty-five feet, levelled to within twenty-four inches of the ground.

This provision does not apply to hedges, upright posts, fences more than twenty-five feet distant from the road, nor to those which cannot be taken down or rebuilt without great expense, nor to fences erected in the woods, or within the limits of a village, whether the same be or be not constituted into a separate municipality.

Nevertheless the owners or occupants of land, who maintain the fences along any front road, not being that on which they are obliged to work, shall pay to the person bound to maintain such road, the excess of work occasioned by the fact that as such fences cannot be taken down, the person liable for the work on such road has additional labor.

837. Every council may, by resolution, give such orders as it deems proper, respecting the maintenance

(1) **HELD:**—That a municipality shall be held responsible for the damages caused within its limits, by reason of the violation of art. 835 M. C., which requires that a winter road be at least seven feet wide between the two rows of balizes.—*CORPORATION DE ST-CHRISTOPHE D'ARTHBASKA & BEAUDETTE, V. Quebec Law Rep.*, 316.

of winter roads, which are under its control. These orders are binding upon the officers of the council, and upon all parties interested in the work upon the road to which they relate.

838. Winter roads laid out on the same lines as the summer roads are at the expense of the same persons or corporations as in summer.

839. If any by-road leading solely to any ferry or pay-bridge, the road work of which is at the charge of the owner or occupant of such ferry or pay-bridge, serve in winter as a passage to any other public road, the work of maintaining such by-road or the road which is substituted therefor, is not, during the winter at the costs and charges of such owner or occupant, but is performed in the same manner as that of any other by-road.

SECTION II.

Of Winter Roads which replace Municipal Summer Roads.

840. (*As substituted by 41 Vic., c. 18, s. 32*). Winter roads on land may be laid out beyond their lines in summer, and across any field, enclosure or land in standing timber.

If the proprietor of such land suffers damage, he shall be indemnified therefor by the council of the municipality, provided the council and the proprietor come to an understanding thereon; if they do not, the council shall have the damage assessed by the municipal valuers, the council reserving, however, its recourse against all parties interested in the road for the repayment of the moneys so expended.

However, these roads cannot be laid out through gardens, orchards, yards or other lands enclosed within quick set hedges, or fences which cannot be taken down or replaced without incurring heavy expenses,

unless the consent of the proprietor or occupant be obtained.

The municipal council may make by-laws for the purpose of allowing the opening of winter roads across all fields or through all woods, for hauling logs, square timber or cord wood, provided it be done without causing damage and subject to the restrictions contained in this article.

841. Winter roads, which are substituted for municipal summer roads, are kept in repair, either by those who in summer are liable for work upon the roads for which the former are substituted, or by the corporation itself when such roads are maintained at its expense, except in the case of article 839.

SECTION III.

Of Winter Roads and Rivers.

842. The corporation of every local municipality situated on the banks of a river or of any other piece of water, which separates, in front, such municipality or a part of such municipality from another, is bound to lay out and maintain during the winter, over half such river or piece of water, for the purpose of connecting the two municipalities, any road demanded by the council of one of such municipalities.

842a. (*Added by 41 Vic., ch. 18, s. 33*). The corporation of every local municipality situated on the river St. Lawrence, is bound to lay out and maintain during the winter, within its limits and over half of the piece of water separating such municipality or a portion thereof from another or from a city or town municipality, for the purpose of connecting such local municipality with another local municipality or with a city or town municipality, or of connecting two city or town municipalities situated on the banks of that river, every road asked by the

council of one of such local municipalities or by one of such city or town municipalities; and on the refusal or neglect of the council of such municipality, the road may be laid out, made and maintained by the corporation of the local city or town municipality demanding the same, at the expense of the corporation in default which is responsible therefor

843. On the refusal or neglect of the council of the neighboring municipality, the road may be laid out, made, and maintained by the corporation demanding the same, at the expense of the corporation in default, which is responsible therefor.

844. Any road laid out and maintained upon the ice, under article 842, may be continued at the expense of the corporation liable for such road work, across any field or land in standing timber, except through orchards, yards and grounds enclosed by a wall or hedge, to connect the road on the river or other piece of water with any other public road in the vicinity.

845. Such roads are laid out as soon as the ice is sufficiently strong, under the direction of the inspectors of roads or other special officers of the two councils interested.

846. Expenses incurred in laying out and maintaining any winter road upon the river St. Lawrence, the Ottawa river, the river Milles Isles, the Chambly river and the river des Prairies, by the corporations of the country or village municipalities situated on the banks of such rivers, are repaid them by the corporation of the county municipality, upon presentation of a statement of such expenses, certified by the mayor or secretary-treasurer of the local council, saving the case when such expenses must be reimbursed by town or city municipalities, in virtue of the following article.

847. (*As amended by 41 Vic., c. 18, s 34.*) The corporation of any town or city municipality situate on the banks of the river St. Lawrence, is bound to reimburse the expenditure incurred in laying out and maintaining every winter road which terminates within a radius of two miles from the limits of such municipality, upon the river, to the corporation of the neighboring local municipality, on the same side, which has incurred them.

And if such road pass through a local municipality and is made for the purpose of connecting two town or city municipalities situated on opposite banks of the river St. Lawrence, the corporation of such town or city municipalities thus situated on opposite banks of the river St. Lawrence, shall be bound to reimburse to the corporation of the municipality through which such road passes, the expenditure incurred in laying out and maintaining the whole of such winter road, each paying a share in proportion to the respective amount of the valuation of the property as established by the valuation roll of each municipality.

847a. (*Added by 36 Vict., ch. 21, s. 28.*) The corporation of the municipality of the county of Maskinonge is solely responsible for damage resulting from the improper maintenance of the winter roads, on the river St. Lawrence, by the country and village municipalities included in such county municipality.

848. The provisions of articles 842, 843, 844, 845, 846, and 847 do not apply to roads on rivers or other pieces of water, which are substituted for summer roads.

849. Corporations are not responsible for accidents or damages occasioned by the breaking of the ice, on roads laid out and maintained by them, on rivers or other pieces of water.

TITLE FOURTH.

OF MUNICIPAL BRIDGES.

850. All public bridges of eight feet span or more, save and except those referred to in article 883 and those governed by special acts, or possessed by iron or wooden railway companies, or by the imperial, federal, or provincial governments, are under the control of municipal corporations, and are made and maintained in accordance with the provisions of this title.

851. All bridges situated either upon front roads or by-roads, are either local bridges or county bridges.

Local bridges are those which are wholly situate in one and the same local municipality.

County bridges are those which lie between two local municipalities. If any bridge lies between two local municipalities, which form part of the two county municipalities, it is the bridge of the two county municipalities.

852. Municipal bridges known at the time of the coming into force of this code, as local bridges or county bridges continue to be so known and to be governed as such, until otherwise provided under the authority of this code.

853. Every municipal bridge must have hand-rails or other sufficient protection ; it must be at least fourteen feet in breadth between such hand-rails, and must be constructed of materials fastened or bound together in such a manner as to prevent all accidents.

854. Every municipal bridge must be kept in good order in the manner required by law, and by the by-laws or *procès-verbaux* concerning it.

855. A by-law or a *procès-verbal* to regulate the work of constructing, improving or maintaining any

municipal bridge may be drawn up, in the manner prescribed by article 794, either upon the petition of any person interested in such work, or upon the order of the municipal council after the passing of a by-law or resolution in relation to any bridge in virtue of articles 526 or 527.

All the provisions of the second chapter of the preceding title respecting the manner of drawing up, amending or repealing a *procès-verbal* of a road and the act of apportionment relating thereto, apply to *procès-verbaux* to be drawn up, or already drawn up, respecting municipal bridges in so far as they are consistent with the provisions of this title and the nature of the work to be performed upon such bridges.

856. In the absence of *procès-verbaux* or of by-laws respecting them, the work of constructing, improving or maintaining bridges situated on a front road, is performed at the cost of all the proprietors or occupants of the taxable property comprised in the range in which is such front road, and the work upon bridges situated upon by-roads is at the cost of persons liable for such work on such by-roads.

The work of constructing or improving such bridges is in such case performed by contract given out in the manner prescribed in the seventh title of this book, and the repairs are performed according to the rules laid down in articles 827 and 828.

857. Municipal bridges are made or maintained by the corporation of the local municipality in which they are situated, if any by-law has been passed by the council of such municipality in virtue of article 535, with reference to bridges.

858. Articles 757, 758, 759, 760, 761, 762, 769, 780, 781, 782, 785, 786, 787, 789, 790, 791 and 793 apply also *mutatis mutandis* to municipal bridges.

859. Any person driving any vehicle faster than a

walk, over any bridge exceeding twenty feet in length, unless such bridge is wholly constructed of stone, brick or earth, or cutting, defacing or injuring any part of any bridge or of the posts or of any other object forming part of a bridge or belonging thereto, incurs a penalty of not less than two nor more than twenty dollars, in addition to the damages caused.

TITLE FIFTH.

OF FERRIES.

860. All ferries on any river or other piece of water, are under the control of the corporation of the local municipality within the limits of which is situated such river or piece of water.

861. If a river, stream or other piece of water separates one local municipality from another, the ferry is under the joint control of the corporations of the two local municipalities adjoining such river, stream or piece of water.

862. No person can carry on the occupation or trade of a ferryman without a license to that effect; and any one so acting without a license, or beyond the limits assigned by his license, incurs a penalty not exceeding four dollars for each person or thing ferried over by him.

863. In the case of article 861 the license is given by the councils of the two municipalities interested, in conformity with the by-laws in force for that end, or, if such councils do not agree, by the lieutenant-governor, in conformity with the by-laws made under articles 549 and 550 and approved by him.

864. The moneys arising from any license granted by the lieutenant-governor belong in equal shares to the corporations of the two municipalities interested.

865. Neither the local council nor the lieutenant-governor can grant any license to keep a ferry within the limits for which an exclusive privilege has been conferred by any law on the proprietor of a toll-bridge.

866. Ferries between the parish of Notre-Dame de la Victoire and the city of Quebec, between the parish of Longueuil and the city of Montreal, between Montreal and Laprairie and between Lachine and Caughnawaga, are not governed according to the provisions of this code.

TITLE SIXTH.

ON MUNICIPAL WATER-COURSES..

867. All water-courses draining several pieces of land, with the exception of boundary ditches, which drain only the two properties between which they are situated, and of road ditches, are regulated according to the provisions of this title.

868. Every river or natural water-course, in the parts thereof which are neither navigable nor floatable, is a municipal water-course within the meaning of the provisions of this title.

A river or natural water-course which is only floatable at certain periods of the year or after rains, does not cease to be a municipal water-course.

869. Municipal water-courses are either local water-courses or county water-courses.

Water-courses situated wholly in one local municipality are local water-courses.

Those which divide two local municipalities or which pass through more than one local municipality are county water-courses. If a water-course divides or passes through local municipalities forming part of several county municipalities, it is the water-course of all such county municipalities.

870. The work of constructing, improving or maintaining any municipal water-course is performed by the persons interested, who are liable therefor under any by-law, *procès-verbal*, or act of agreement, or under the following article, or by the corporation if a by-law has been passed in virtue of article 475. (1)

871. In the absence of a by-law, of an act of agreement, or of a *procès-verbal*, the work on a municipal water-course is performed by the owner or occupant of each piece of land through which such water-course passes. If a water-course passes between two pieces of land it is at the joint cost of the owners or occupants of the same.

Nevertheless in the case of article 882, and in the absence of a by-law, act of agreement, or *procès-verbal*, the work is at the cost of the owners or occupants of the low and swampy lands drained by the water-course.

872. Work upon municipal water-courses is performed in the manner laid down by the provisions of this code and by the acts of agreement, *procès-verbaux* or by-laws, as the case may be, which regulate such water-courses.

873. (*As amended by 39 Vic., c. 29, s. 14.*) All the work ordered to be done on any county or local municipal water-course is performed under the superintendence and control of the rural inspector of the division through which such water-course flows, or of a special officer appointed for that purpose by the council or board of delegates, who have the control of such water-course.

Such special officer is invested with the same powers,

(1) **Held:**—That when works on a water-course are to be done in common, and that one of the persons bound refuses to work, an apportionment must be made establishing each one's share.—*Sévigny vs. Doucet*, VI *Revue Légale*, 40.

subject to the same obligations and liable to the same penalties, in relation to the water-course for which he has been appointed, as the rural inspector.

If such special officer is selected from among the persons interested in the work to be performed on such water-course, he shall not be entitled to any fee for his service or loss of time, from the parties interested, but he may be paid by the council who appointed him.

874. The work of opening a municipal water-course cannot, however, be superintended by a rural inspector who is personally interested in the work to be performed on such water-course.

875. Municipal water-courses may be kept in good order and free from all obstructions, which prevent or impede the water from flowing, for the whole period between the first day of June and the thirty-first day of October following.

876. The rural inspector of every rural division must, between the first and fifteenth days of the month of June in each year, and thereafter until the month of November following, whenever required so to do by the council, or by the board of delegates or by any person interested, visit and examine the water-courses under his superintendence, and provide that the necessary work, for the maintenance of the same, be executed without delay, in conformity with the provisions of the law, and of the *procès-verbaux*, acts of agreement or by-laws, which prescribe such work.

877. (*As amended by 41-42 Vic., c. 10, s. 31.*) No person is bound to perform work upon any municipal water-course between the first day of November in each year, and the thirty-first day of the month of May following, both days inclusive, except when such water-course is obstructed by snow or ice, or otherwise, and on the order of the inspector.

878. (*As amended by 41 Vic., c. 18, s. 35.*) Articles 757, 758, 759, 760, 761, 762, 780, 781, 782, 786, 787, 789, 790 and 791, respecting municipal roads, apply also *mutatis mutandis* to municipal water-courses. Article 793 applies also to municipal water-courses, except, however, those the work on which is regulated by act of agreement.

Works of improvement or maintenance on every municipal water-course of the same nature as those above mentioned can be regulated by *procès-verbal* or by by-law, and made by the owners of lands drained either by such river or natural water-course, or its tributaries.

879. Whoever obstructs any municipal water-course, or allows it to be obstructed in any manner, incurs, over and above the damage occasioned, a penalty not exceeding one dollar for every day such obstruction remains, at the expiration of two days from verbal or written notice given by or on behalf of any person interested, having for object the removal of such obstruction.

880. No municipal council or board of delegates can, by itself or by its officers, direct the demolition of any dam, dyke, or flood-gate of any mill or factory whatsoever, on the ground that such dam, dyke, or flood-gate is an obstruction to a water-course.

881. No person is in any manner bound to make or to assist in making through his own land, a water-course of any depth greater than that which is necessary for draining such land.

882. The owner or occupant of any low and swampy land may make a water-course through any neighboring land or avail himself of those which are already made, deepen the same if they are not deep enough, and repair and keep them in order, in so far

as is necessary for the drainage of such low and swampy land.

The work to be done on such water-courses may be regulated by by-laws, *procès-verbaux* or by act of agreement.

883. The rural inspector of the division may authorize the opening of any trench or excavation in any public road, to enable a water-course to pass through the same.

Such trench or excavation must be indicated, both by day and night, in such a manner as to prevent all accident, under a penalty for the damages occasioned.

Within the forty-eight hours next after the commencement of the work upon the road, a suitable and solid bridge of the width of the road must be built over such water-course. This bridge continues to form part of the work of the water-course.

884. (*As amended by 39 Vic., ch. 29, s. 15.*) Any municipal council, by resolution to that effect, or on the petition of one or more persons interested in the opening, closing, division, construction, or maintenance of any water-course which is or ought to be under its control, asking that the work to be done on such water-course be regulated and determined, or asking that the same be closed, must without delay, 1st, call together at one of its sittings, by public notice, the rate-payers interested in the projected work, and if, after giving them a hearing, the council is of opinion that such work should be performed, make a by-law to settle, determine, and apportion the work on such water-course; or 2ndly, appoint a special superintendent, with instructions to visit the places mentioned in the resolution or petition, to report to the council and to draw up a *procès-verbal*, if there is occasion to do so, within the thirty days next after his appointment, or within the delays fixed by the council.

885. All the provisions of the second chapter of the third title of this book, respecting the manner of making, amending or repealing any *procès-verbal* of a road and the act of apportionment connected therewith, apply to *procès-verbaux*, to be made or already made respecting municipal water-courses in so far as such provisions are consistent with those of this title and with the nature of the work to be performed upon the water-courses.

886. The waters of any municipal water-course may be turned into any other municipal water-course, if it is so ordered by a *procès-verbal* or by-law, as the case may be, without such two water-courses being deemed to be a single water-course from the fact of their junction.

887. Any proprietor or occupant whose land is drained by any water-course may be made liable for the work on such water-course, in virtue of a *procès-verbal*, or of a by-law made under article 884, for and by reason of the extent of his land so drained, in the proportion established by the special superintendent, the council or the board of delegates, as the case may be ; but should an error of not more than ten per cent of the whole of the land so drained, be made, such error is not to be taken into account.

888. The persons interested in any municipal water-course, whether the same is governed by a by-law, by a *procès-verbal*, or in virtue of article 871, may, by an act of agreement approved by the council or the board of delegates, who have the control of such water-course, determine the work to be done thereon, the manner in which it shall be done, and what persons amongst themselves shall do the same.

889. The act of agreement takes *de jure* the place of the *procès-verbal* or of the by-law, which regulates such water-course if there is one, and is obligatory

upon all who become parties to the same, and upon their representatives, until it is repealed by the council or the board of delegates, or by consent of all the parties thereto, or their representatives, or until it is replaced by a subsequent *procès-verbal* or by-law, under the same penalties as if the water-course was regulated by a *procès-verbal*.

890. A copy of every act of agreement must be deposited in the office of the council of every local municipality in which is situated, either in whole or in part, the water-course regulated by such act.

891. Any person may use any municipal water-course as well as the banks thereof, for the conveyance of all kinds of timber or wood, and for the passage of all boats, ferry-boats and canoes, subject always to the charge of repairing, without delay, all fences, drains or ditches damaged thereby, and to the payment of all damages resulting from the exercise of such right.

TITLE SEVENTH.

OF OTHER PUBLIC WORKS OF MUNICIPAL CORPORATIONS.

892. All public works of county or local municipal corporations, the execution of which is not specially regulated by the provisions of this code, are made, at the expense of the corporation which orders them, by contract awarded and passed according to the rules laid down in this title.

893. On resolution of the council to that effect, public notice is given, specifying summarily, the works to be made, the details prescribed by the council, and the time during which tenders therefor may be sent in.

894. The contract for such works must be awarded by resolution of the council.

895. The contract is made in the name of the corporation and accepted by the head of the council, or by a person specially authorized for that purpose by the council.

896. The person to whom such work is adjudged must give security to the satisfaction of the council for the due performance of such work, and for the payment of all damages, costs, and interest, in the event of his not fulfilling the contract.

897. Whenever work is under the direction of the county delegates the notice is published, and the contract awarded and entered into according to instructions from the board of delegates, by the council of the county municipality which originally proposed the work in question.

898. The contract is binding on every municipal corporation interested in the work to which it relates.

899. The council with whom the contract has been made, may, in the name of the corporation which it represents, sue to enforce performance thereof before any competent court.

900. The other municipal corporations interested in the work to which such contract relates may bring a similar action, but only after having given the council which entered into the contract, a special notice of fifteen days requiring such council to institute such action.

901. The council or the board of delegates under whose direction such contract is performed, may order any road inspector of the division in which such work is being done, to superintend its execution.

TITLE EIGHTH.

EXPROPRIATION FOR MUNICIPAL PURPOSES.

902. Every municipal council may, in complying with the provisions of this title, appropriate any land required for the execution of works ordered by any by-law, *procès-verbal* or other resolution within the scope of its jurisdiction (1).

903. The corporation becomes the proprietor of such land, and may take possession thereof, without any other formality, from the moment that the decision of the valutors who fixed or refused an indemnity, has become final and without appeal.

904. (*As amended by 45 Vic., c. 35, s. 29.*) No council of a county or rural municipality can, without the consent in writing of a proprietor :

1. Demolish or injure any house, barn, mill, or other building ;

2. Cause a public road to be made through any farm yard or any garden enclosed by a wall, hedge, board or standing picket-fence ; nor through any orchard or maple grove situated within a radius of four hundred feet of the house inhabited by the occupant of such orchard or grove ; nor through any wood-yard, pleasure-ground or other improved and enclosed land, being contiguous to and forming the dependence of a country-house or residence.

905. No municipal council can, without the consent in writing of the owner, in any manner injure any canal, or the dam of any mill or manufactory, nor divert the course of the water which feeds such canal,

(1) The formalities prescribed by the statute for the opening of a road and for the expropriation of the property of individuals must be rigorously followed and are *à peine de nullité*.

A municipality failing to observe such formalities will be condemned to restore the land expropriated, and to pay damages, notwithstanding that the neglected formalities have been observed after action brought.

The right of a corporation to enter upon expropriated property depends upon the prior evaluation.—THE CORPORATION OF THE TOWNSHIP OF NELSON VS. LEMIEUX, II *Quebec Law Rep.*, 225.

mill or manufactory, nor cause a public road to pass through property mentioned in any of the first four paragraphs of article 712.

906. No indemnity must be allowed for the land required for the first front road upon a lot, nor for the land reserved for a public road in the grant or concession of a lot.

Nor is any indemnity to be allowed by way of *prix d'affection*.

907. In the valuation of any land taken for a public road, the value of the road which has been done away with, which falls to the expropriated proprietor under article 753, and the special advantages which such proprietor derives from the new road as laid out, must be estimated and go in deduction of such value of such land.

If the land is taken for any other public work, the advantages which the proprietor derives from such work are also estimated and go in deduction of the value of such land.

908. The indemnity to be paid for any land liable to expropriation may be fixed and established by agreement between the proprietor thereof, if he is of age and in possession of civil rights and the council under the control of which such expropriation takes place; and it may also be agreed that no indemnity need be accorded to the expropriated proprietor.

In the absence of an understanding between such parties, the value of the land in question, together with whatever goes in compensation with the value of such land, is estimated by the valutors of the local municipality in which such land is situated, and the indemnity is fixed or refused by them.

909. No one can act as valuator under the provisions of this title:

1. Whenever he himself, or his relations either by blood or marriage, to the degree of cousin-german exclusively, are interested as expropriated persons ;

2. Whenever he himself will be called upon to pay the indemnity, which may be granted.

Nevertheless, no valuator can be objected to, on the ground of relationship to any one of the parties who must pay the indemnity in the case where such indemnity may be granted.

910. No objection to the competence of any valuator can be made, after the award fixing or refusing such indemnity has been rendered.

911. If by reason of incompetence, absence, refusal or other causes, some of the valutors in office or of those appointed to replace them, do not act under the provisions of this title, the local council must replace them by other persons capable of discharging such office.

These substitutes are invested with the same powers, subject to the same obligations, and liable to the same penalties as the valutors in office, but they only discharge their duties, with regard to the special case of expropriation, for which they were appointed.

912. The valutors, required to proceed in virtue of the provisions of this title, commence their proceedings at the time and place fixed by the council asking the expropriation, and of which they have given public notice and also a special notice of at least five days to the parties to be expropriated.

They may adjourn their investigations and the examination of the parties interested and their witnesses, from day to day, until the award is rendered.

913. Such valutors, after having examined and valued the land and heard the parties interested and their witnesses, render their awards, by means of one

or more certificates, which are lodged by them in the office of the council demanding the expropriation.

Public notice of such lodging must be given without delay by the secretary-treasurer of the council.

914. Every award rendered by the valuers is final and cannot be appealed from, after the expiration of the thirty days from the notice of the lodging of the certificates, unless objection be made thereto in virtue of the following article.

915. Any one aggrieved by any award so rendered may make objection thereto by producing a petition in writing to such effect, at the office of the council, within the thirty days which follow the public notice given under article 913.

916. After the production of such petition at the office of the council, on demand of one of the parties interested, three new valuers are appointed as follows: one by the council which demands the expropriation, one by the party who objects to the award, or by the party who maintains the award, if it be the council that object to it, and one by a judge of the superior court, the district magistrate, the prothonotary, or by the clerk of the circuit court for the county or district.

If one of the parties refuse to appoint and to make known his valuator within the two days which follow the demand therefor, which is served upon such party, the valuator is appointed by such judge, district magistrate, prothonotary or clerk.

917. The three new valuers, after having made oath well and faithfully to discharge their duties, proceed with the valuation of the land and of whatever enters into compensation therewith, to the hearing of the parties interested and their witnesses and to the rendering of their award, in the same manner as the

previous valuator, save and except the time and place of their deliberations which they fix themselves.

The award rendered, by such valuator, is final, and without appeal.

918. In every award rendered by them the valuator must mention the lot of which the land taken forms part, indicate the proprietor of such land, as well as the by-law, *procès-verbal*, or order of the council in virtue of which such land is taken, and fix the amount of the indemnity if they grant one, and if not, state their refusal.

919. The indemnity granted by the valuator bears interest at four per cent from the day of the entry into possession of such land, and is payable by the corporation at the expiration of the four months which follow such entry into possession.

920. Any person in possession of such land at the time of the valuation thereof, and who is *bona fide* deemed to be the proprietor thereof, may receive the indemnity granted for such land, saving the recourse of the real proprietor against the person who has received the indemnity.

921. If before the expiration of the four months creditors come forward, who claim payment of the indemnity either in whole or in part, the secretary-treasurer must retain in his hands the moneys intended to pay such indemnity, or the portion thereof claimed, until, on petition to that effect, a judgment is rendered by the magistrate's court for the county or district.

922. If the public work which required the expropriation is at the cost and charge of the rate-payers, in accordance with the provisions of a by-law, of a *procès-verbal*, or of the law, the amount of all the indemnities, with interest and costs, must be apportioned, like any other municipal tax, by the secretary-treasurer, upon

all the rate-payers according to the value of the taxable property on account of which they are liable for such works.

The collection of the moneys is made, with as little delay as possible, by the secretary-treasurer, in the same manner as local taxes.

923. If the council so order, the amount of such indemnities is apportioned by the municipal officer who conducts the work to which the indemnity relates, and collected by him in the same manner as any other tax for roads or other public works.

924. If the works which require the expropriation are under the direction of the county delegates, the expropriation of all lands takes place under the control of the municipal council of the county in which such lands are situate, according to the instruction of the board of delegates.

TITLE NINTH.

APPEALS TO THE COUNTY COUNCIL.

925. *As amended by 39 Vic., c. 29, s. 2, and by 41 42 Vic. c. 10, s. 32.)* An appeal lies to the county council, from the passing of any by-law made by the council of any rural municipality, excepting those which merely repeal other by-laws, those which relate to the sale of intoxicating liquors, and those which, before coming into force, must be approved by the municipal electors.

The right of appeal can only be exercised within the thirty days which follow the promulgation of the by-law; and no appeal shall lie from a resolution, even when it is passed in the exercise of the powers conferred by article 460.

926. *(As amended by 35 Vic., c. 8, s. 10, by 36 Vic., c. 21, s. 29, by 39 Vic., c. 29, s. 2, and by 45 Vic., c. 35, s. 30.)* An appeal lies to the same council from the homologation of any *procès verbal* made by any council of a rural municipality within the thirty days

following the notice of homologation given in virtue of article 808, as also from any decision of a council of a rural municipality rendered under article 819, respecting an act of apportionment, within the thirty days which follow such decision.

An appeal also lies to the county council upon any refusal to homologate a *procès-verbal*, by the council of a rural municipality, and the dismissing by the local council or by its superintendent of any petition praying for the opening and maintenance of a municipal road, within the thirty days following the refusal of such homologation or the dismissal of such petition.

927. (*Repealed by 41-42 Vic., c. 11, s. 33.*)

928. The appeal may be brought before the county council by any person having an interest therein.

929. The appeal is brought by means of a summary petition which must be filed in the office of the county council, within the prescribed delays, in default whereof the right of appeal determines.

A copy of such petition must, within the same delay, be served at the office of the local council.

930. Every petition in appeal must be taken into consideration by the county council within the thirty days next after it has been filed in the office of the council, in default of which the appeal determines, save in the case of the following article :

Whenever no ordinary session is to be held within the thirty days, it is the duty of the secretary-treasurer or of the warden, if they are notified thereof, to summon a special meeting of the council to be held within such delay, to take into consideration such petition in appeal.

931. If the special session convened under the preceding article is not held, through the absence of a quorum, the petition in appeal may be taken into consideration at the next general session.

931a. (*Added by 35 Vic., c. 8, s. 7.*) The county council, however, cannot take the petition in appeal into consideration until after public notice, of the day

and hour of the session at which it will proceed to the examination of such petition, has been given by the secretary-treasurer, or by the warden, in the local municipality from which the appeal comes.

932. The council, after having heard the petitioners and the members of the local council or the secretary-treasurer thereof, and after having heard the witnesses and examined the documents produced by the parties, confirms, amends or disallows the by-law, *procès-verbal*, or decision appealed from.

By its decision, the county council may award and tax the costs in appeal against any party and in favor either of the county corporation or of any other party; and such costs may be recovered in the same manner as penalties imposed under the provisions of this code.

933. If the county council neglects or refuses to take into consideration the petition in appeal, within the prescribed delay, or if, after having taken the same into consideration within such delay, it closes the session or adjourns the same *sine die* or for any period beyond ten days, without having decided upon the merits of the petition, the appeal is quashed, and the by-law, *procès-verbal*, or decision appealed from, is held to be confirmed by the county council.

934. A copy of the decision of the county council, if a decision was arrived at, or otherwise, a certificate from the secretary-treasurer of such council establishing that no decision was given by the council within the required time, must be transmitted, without delay to the office of the council of the local municipality from which the appeal arose.

935. Every decision of the county council which amends any *procès-verbal*, must be published by the secretary-treasurer of the local council by a public notice containing the substance of such decision.

986. Whenever a petition in appeal is reserved at the office of the local council, the secretary-treasurer of such council must forthwith transmit all the documents relating to the matter which forms the subject of the appeal to the office of the county council.

These documents must be returned to the office of the local council, immediately upon the decision of the county council, or, if there has been no decision, immediately upon the expiration of the time during which such decision might have been rendered.

TITLE TENTH.

MUNICIPAL TAXES AND DEBTS.

CHAPTER FIRST.

MUNICIPAL TAXES.

SECTION I.

General Provisions.

987. Municipal taxes imposed on the taxable property of a municipality, must be apportioned, as well on the taxable real estate, as on the movable property declared to be taxable by article 710, unless it be specially declared that such taxes must be imposed solely on the taxable real estate.

988. The amount of every tax imposed by a county council, for general or special purposes, is levied, except in the case mentioned in articles 490 and 491, on all the local corporations of such county, in proportion to the total value of their taxable property liable for the payment of such tax.

939. The portion imposed on each local corporation constitutes a debt payable by such corporation to the county council, according to the conditions and on the terms fixed by such council.

The amount of such portion or debt is levied in the local municipality in the same manner as local taxes, on all the taxable property subject to such tax, without its being necessary to make other by-laws or orders for that purpose.

In the case of refusal or neglect on the part of the local corporation to pay the portion which has been imposed upon it, such portion may be recovered from it in the manner set forth in article 951. (1)

940. The secretary-treasurer of the county council is bound, before the fifteenth day of May in each year, or at any other period fixed by the council, to apportion, with the approval of the latter, among all the local corporations of the county municipality, the sums payable to the county council, during the current year, in virtue either of municipal orders or of former apportionments in force, and to transmit to the office of the council of each local corporation, a certified copy of such apportionment.

Whenever a new sum of money is imposed by the county council, after the period fixed upon by this article, a new apportionment must be made and transmitted in the same manner by the secretary-treasurer.

941. Taxes imposed for county purposes, under

(1) HELD:—10. That the district magistrate has jurisdiction for the recovery of municipal taxes, whatever be the amount;—20. That under art 939 and 941, M. C., a local corporation may be sued before the district magistrate for the recovery of a county debt due by the local corporation to the county corporation;—30. That a district magistrate is not disqualified to sit in such cases by the fact that he is a rate-payer in the interested municipality—*LA CORPORATION DE LA PAROISSE ST. GUILLAUME vs. LA CORPORATION DU COMTÉ DE DRUMMOND*, VII *Revue Légale*, 642.

a *procès-verbal*, or act of apportionment relating to any *procès-verbal*, or made under article 490 or 491, are collected by the officers of the local municipalities, in which is situated the taxable property affected, in the same manner as taxes imposed for local purposes.

A statement of such taxes must be without delay transmitted to the persons entrusted with their collection, if such persons are not those whose duty it is, under the control of the county council or the county delegates, to attend to the execution of the *procès-verbal*, of the act of apportionment, of the by-law, or of the law (1).

942. All municipal taxes imposed on taxable property for local or county purposes, must be fairly apportioned according to the valuation roll in force, on all property subject to the payment of such taxes, in proportion to its taxable value, that is to say, in proportion to the actual value of the real estate, and the estimated value of property declared taxable under article 710, save the case specified in article 773.

942a. (*Added by 41 Vic., c. 18, s. 36.*) In determining the value which must be given to lands used for agricultural purposes and situated within the limits of town or village municipalities, regard is had to the value of such lands for agricultural purposes simply, except for that part fronting on streets and roads to the ordinary depth of building lots in that locality, which may be taxed according to its real value.

943. (*As amended by 36 Vic., c. 21, s. 30, by 41-42 Vic., c. 11, s. 34 and by 45 Vic., c. 35, s. 31.*) The council of every local municipality may, by a resolution, exempt from the payment of municipal taxes, for a

(1) **HELD:**—That the means of collecting the contributions due to the county council is through the local municipalities and their officers; and that the county corporation has no right to proceed directly against the rate-payers by action or otherwise.—**ROBERGE VS LA CORPORATION DE LÉVIS**, VII *Revue Légale*, 642.

period not exceeding twenty-five years, any person who carries on any business, trade, or mining or manufacturing enterprise whatsoever or the proprietor of any bridge, as well as the land used for such business, trade, or manufacturing or mining enterprise or bridge; or agree with such person for a fixed sum of money payable annually for any period not exceeding twenty-five years, in commutation of all municipal taxes.

It may also exempt the poor of the municipality and their property from the payment of municipal taxes.

Such exemption or agreement does not extend to work upon water-courses, boundary ditches, fences, clearances, or front roads connected with taxable property so exempted or commuted.

944. The local council may, whenever it deems advisable, authorize by resolution the secretary-treasurer or any other officer, to add a sum not exceeding ten per cent. to all taxes to be levied on the taxable property in the municipality to cover losses, costs and bad debts.

945. Municipal taxes or contributions in labor or materials are always convertible into money, after they fall due.

946. All municipal taxes are regarded as privileged debts, exempt from the formality of registration.

947. Taxes bear interest, at the rate of six per cent., from the expiration of the delay during which they ought to be paid, without its being necessary for such purpose that a special demand of payment be made. Neither the municipal council nor its officers can remit such interest.

948. All municipal taxes, imposed on any land, may be collected from the occupant or other possessor of such land as well as from the owner thereof or

from any subsequent purchaser of such land even when such occupant, possessor or purchaser is not entered on the valuation roll.

949. Any person, not being the proprietor, who pays municipal taxes imposed in consideration of the land which he occupies, is subrogated without other formality, in the privileges of the corporation on the movable or immovable property or the proprietor, and may, unless there be an agreement to the contrary, withhold from the rent or from any other debt which he owes him, or recover from him by personal action, the amount which he has paid in principal, interest and costs.

950. All arrears of municipal taxes, except in the case of articles 402 and 495, are prescribed by three years. This provision is subject to the application of articles 2267 and 2270 of the civil code.

951. The payment of municipal taxes may be also claimed by an action brought in the name of the corporation, before any justice of the peace, the magistrate's court, or the circuit court for the county or district, as well against persons absent from the municipality as against those present therein (1).

952. The local council must, on the requisition of the school commissioners or trustees of any school municipality situated within the limits of the local municipality, accept the school assessment roll or the certified extract therefrom presented by them, and order

(1) **Held** :— That the district magistrate has jurisdiction for the recovery of municipal taxes, whatever be the amount ;— That under art. 939 and 951 M. C. a local corporation may be sued before the district magistrate for the recovery of a county debt due by the local corporation to the county corporation ;— That a district magistrate is not disqualified to sit in such cases by the fact that he is a rate-payer in the municipality.—*LA CORPORATION DE LA PAROISSE DE ST. GUILLAUME VS LA CORPORATION DU COMTÉ DE DRUMMOND*, VII *Revue Légale*, 642.

the secretary-treasurer to collect such taxes in the same manner and at the same time as municipal taxes.

953. Taxes levied by the local council for public works in each of any townships united to form a distinct local municipality under article 39, are expended, less the costs of collection and of management, in the townships in which such taxes were levied, unless the county council otherwise orders.

SECTION II.

Collection of Taxes in Local Municipalities.

954. It is the duty of the secretary-treasurer of every local council, to make a general collection roll, each year during the month of October, or at any other time fixed by the council.

He must also make a special collection roll, whenever a special tax has been imposed after the making of the general collection roll, or whenever he is ordered so to do by the council.

955. Every collection roll must contain, in different columns:

1. The names and quality of each proprietor, who is a rate-payer, entered on the valuation roll, or the word "unknown," if the proprietor is unknown;

2. The names and quality of every occupant of taxable land, who is not the owner thereof, if such occupant is known, whether he is or is not entered upon the valuation roll;

3. The actual value of the taxable real estate of each rate-payer;

4. The value of the property of each rate-payer, declared taxable in virtue of article 710;

5. The total value of the taxable property of each rate-payer;

6. The amount of taxes payable by each rate-payer (1).

956. If the collection roll is general, it must set forth in detail, in as many distinct columns, all taxes due since the making of the last general collection roll, distinguishing therein local taxes from those which have been imposed for county purposes.

957. In every local municipality in which taxes have been imposed in virtue of article 584 or 595, the secretary-treasurer must enter on the general collection roll, in the column for the names of rate-payers, the names and qualities of all persons liable for such taxes, and in separate columns, the amounts due.

958. The secretary-treasurer must enter on the general collection roll and collect all municipal taxes payable in or converted into money, ordinarily collected by other municipal officers, and due or payable either to the corporation or to the officers of the council, by persons occupying taxable property in the municipality, provided that a statement certified and attested under special oath, be transmitted to the office of the council before the making of the general collection roll.

959. If the municipal council has ordered, by resolution, that the collection of school taxes be made at the same time and in the same manner as municipal taxes, the secretary-treasurer must enter, on the general collection roll, the amount of such taxes,

(1) **Held** :—That if the collection roll mentions the share of taxes of some rate-payer at a higher figure than it ought to be according to the by-law imposing the same, such roll is null *quoad* this rate-payer only for the surplus.—*DUBOIS & LA CORPORATION DU VILLAGE D'ACTON VALE, II Revue Légale*, 565.

collect them and remit them forthwith to the secretary-treasurer of schools.

960. The secretary-treasurer, after having completed the collection roll, gives public notice by which he announces that the general collection roll, or the special roll, as the case may be, has been completed and is deposited at his office, and requires all persons subject to the payment of the taxes or sums therein mentioned, to pay the same at his office, within the twenty days next following the publication of such notice (1).

961. At the expiration of such delay of twenty days, the secretary-treasurer must make a demand of payment of all taxes and sums of money entered in the collection roll and remaining uncollected from the persons liable for the same, by serving or causing to be served upon them a special notice to that effect, accompanied by a detailed statement of the sums due by them.

Until the fee for the service of such notice is fixed by the council in virtue of article 471, the secretary-treasurer is entitled to twenty-five cents for the service of such notice, notwithstanding any municipal by-law in force at the time when this code comes into force.

962. If after the fifteen days next following the demand made in virtue of the preceding article, the sums due by the persons entered on the collection roll have not been paid, the secretary-treasurer may levy

(1) **Held** :—That school taxes cannot be sued for or recovered in the Superior Court; that in a suit for arrears of municipal taxes, it is not necessary to produce the original collection rolls, and that proof of the public notice required by art. 96 of the municipal code and of true abstracts from the collection rolls is sufficient; that arrears of such taxes due by a deceased person are properly recoverable from his universal legatee.—**THE CORPORATION OF THE TOWNSHIP OF ACTON VS FELTON & AL., XXIV L. C. J., 113.**

them together with costs by seizure and sale of the goods and chattels of such persons which may be found in the municipality (2)

963. Such seizure and sale are made under a warrant signed by the mayor of the council.

Such warrant is addressed to a bailiff, and must be executed by that officer, under his oath of office, according to the same rules and under the same responsibilities and penalties as a writ of execution *de bonis* issued by the circuit court.

The mayor, in giving and signing such warrant, does not incur any personal responsibility; he acts under the responsibility of the corporation, in whose interest the distress is made.

964. The day and place of sale of the movables and effects so seized must be announced by the bailiff by public notice in the manner prescribed for judicial sales of movables.

Such notice must also state the names and quality of the person whose effects are to be sold.

965. If the debtor is absent, or if there is no person to open the doors of the house, cupboards, chests or other closed places, or in the event of refusal to open the same, the seizing officer may, by an order of the mayor or of any other justice of the peace, cause the same to be opened by the usual means, in presence of two witnesses with all necessary force without prejudice to coercive imprisonment, if there be a refusal, violence or other physical obstacle.

966. No opposition or claim founded on a right of property or privilege on the movables and effects seized can prevent such seizure and sale, nor the payment

(2) **HELD** :—That a corporation can be sued in damages for an illegal seizure of the movables of a rate-payer.—**BLAIN VS CORPORATION OF GRANBY**, V *Revue Légale*, 180.

of the taxes out of the proceeds of the sale, unless a sum of five dollars, or a sum equal to that claimed in and by the warrant of distress, if such sum does not exceed five dollars, be at the same time deposited in the hands of the secretary-treasurer.

Such opposition is further made, heard and adjudicated upon in the same manner as the one made under article 970.

967. The sum deposited is returned to the person who paid the same, if the conclusions of the opposition or demand are granted, if not, it goes towards the payment of the costs incurred.

968. The proceeds in money of the sale of the effects seized, the costs of seizure and sale being deducted therefrom, are applied by the secretary-treasurer to the payment of the amounts which appear on the collection roll, with interest and costs.

The surplus, if any, is paid by the secretary-treasurer to the person whose effects were so sold, or is retained by the secretary-treasurer, in case claims are made against it, until a decision has been rendered, on petition to that effect, by the magistrate's court or the circuit court of the county or district. If the claim is admitted by the defendant, the moneys are paid by the secretary-treasurer to the claimant.

969. Whenever any land subject to the payment of municipal taxes has been seized and sold by law, or is the object of a petition for ratification of title or for expropriation, the secretary-treasurer must produce the claim of the corporation, by filing within the required delay, at the office of the sheriff or of the prothonotary, a detailed statement of such claim, certified either by the mayor of the council or by himself, together with the necessary vouchers.

970. Every rate-payer who is required to pay, either as municipal or school taxes, an amount greater

than that which he owes, may plead such fact by exception to any action or claim, or by opposition to any seizure of his movable property and effects made under article 962.

Such opposition must be accompanied by an affidavit attesting the truth of the allegations it contains, be served on the officer entrusted with the execution of the warrant of seizure, and be returned within the eight days next following before the circuit court for the county or district or before the magistrate's court at its next session. It is subsequently heard and decided according to the ordinary rules of procedure of the court.

The opposition delays the sale provided it is accompanied by an order for that purpose, signed by the judge or by the district magistrate or by the clerk of the court, before which it is returnable.

971. The secretary-treasurer may, under the authority of the local council, and at the expense of the corporation, employ one or more persons to assist him in collecting the municipal taxes, for whose acts, omissions or neglect he and his sureties are nevertheless responsible.

CHAPTER SECOND.

MUNICIPAL DEBTS.

SECTION I

General Provisions.

972. The principal and interest of any loan or debenture, may be made payable in the province or elsewhere, either in the currency of Canada or of the country where the same are payable.

973. The principal, interest and costs of any debt, contracted by a county corporation for general purposes, are payable to the county council by all the local corporations of the county municipality, and are apportioned and levied in the same manner as taxes imposed by the county council.

974. In every by-law made by a county council, ordering a loan or an issue of debentures to be made for the purpose of aiding in the construction of any wooden or iron railway, or any other public works, to which the corporation of one of the local municipalities of the county municipality has already contributed in its corporate name, it may be stipulated that the amount of the contribution granted by the local council, calculated on the amount of its valuation roll in force at the time such last contribution was ordered, be taken and considered as forming part of the aid granted by the county corporation, to the amount of its share in such aid.

975. In any such case it is valid for the council of the local municipality, if the aid which it has granted in the name of the local corporation must be given by debentures, and if such debentures are not issued, to cancel such aid to the amount of its share in the contribution granted by the county council. If such debentures have been issued, the holders thereof may exchange them for debentures of the county corporation, by transferring to such county corporation, an amount of the stock of such local corporation equivalent to such exchange, with the consent of the local corporation, the council whereof in any such case, must transfer to the county corporation, its share in the work represented by the debentures exchanged.

976. Until such cancellation or exchange has been made, the county council must, in apportioning the tax to be levied under its by-law, make a deduction from the portion of the tax imposed on the corpora-

tion of such local municipality, proportionate to the amount of the aid granted by such corporation.

977. The whole debt contracted by any county corporation cannot, at any time exceed twenty per cent. of the value of the taxable property of the municipality.

978. No local council can, by itself, contract debts for any amount exceeding twenty per cent. of the taxable property of the municipality, such amount to include the share which such council has to contribute towards paying the debt of the county corporation.

978a. (*Added by 36 Vic., c. 21, s. 31 and as amended by 41-42 Vic., c. 10, s. 35.*) The taxes intended to pay the interest upon municipal debentures, issued before or after the coming into force of this code, as also those intended for the payment of a sinking fund, or for the redemption of such debentures, shall be imposed or levied, according to the last valuation roll in force in the municipality.

It is the duty of the secretary-treasurer to make, each year, until the payment or redemption of the debentures, a special collection roll, apportioning on the taxable properties subject thereto, according to their respective value as shown on such valuation roll, the amount of the tax imposed for the interest and for the annual payment to the sinking fund.

979. (*As amended by 41 Vic., c. 18, s. 37.*) The provincial secretary must compile annually in the month of June, from the returns transmitted to his office in conformity with article 168, a statement in tabular form shewing :

1. The names of all the municipal corporations indebted ;
2. The amount of the debt of each of such corporations ;

3. The amount of interest due by them ;
4. The value of movables or immovables belonging to them ;
5. The amount of the valuation of taxable property in each of the municipalities of which the corporation is indebted ;
6. The total rate of taxation or assessment in the dollar, levied for any purpose whatsoever upon taxable property or only upon taxable real estate in such municipalities.

A copy of such tabular statement must be forwarded by the provincial secretary to each branch of the legislature, within the first fifteen days of the following session.

980. (*As amended by 36 Vic., c. 21, s. 32.*) The loans contracted and the debentures issued or the issue of which has been authorized before the promulgation of this code, in conformity with the acts respecting the municipal loan fund, and remaining unpaid, continue to be governed by the provisions of chapter eighty-three of the Consolidated Statutes of Canada and of any other act relating thereto ; and the amounts of such loans or debentures are repayable, the taxes levied to discharge them are apportioned and collected even in cases where the corporation is in default, and the duties and obligations of the municipal councils and officers regarding such loans or debentures must be discharged, until the same have been wholly paid and redeemed, in the same manner as if this code had not been promulgated ; subject nevertheless to the application of article 978a.

SECTION II.

Special provisions respecting Municipal Debentures.

981. Every municipal debenture must specify :

1. The name of the corporation by which it is issued ;

2. The by-law authorizing the issue thereof ;
3. The amount for which it is given ;
4. The rate of interest payable per annum ;
5. The time and place of payment both of interest and principal ;
6. The date of issue.

It must also bear the signature of the head of the council or of any other person authorized by the council to sign it, as well as that of the secretary-treasurer.

982. It must further contain all provisions necessary to carry into effect the intent of the by-law in virtue of which it is issued.

983. The interest on debentures is payable half-yearly.

984. Every debenture is made payable either to the bearer, or to any person named therein, or to the person named therein or the bearer, or to the person named therein or to order.

985. Debentures can be issued for a sum less than one hundred dollars and be made payable less than five or more than thirty years from the date thereof.

986. If the debentures are payable after five years from the date of their issue, the annual tax levied for payment of the yearly interest and for the sinking fund, can be imposed only on the taxable real estate of the municipality.

987. Any municipal debentures payable to bearer, or to any person named therein as bearer, may be transferred by mere delivery.

Any municipal debenture payable to a person named therein, or to a person named therein or order, may be transferred by either general or special endorsement.

When it is endorsed generally it is transferable by mere delivery.

Such transfer vests the property thereof in the holder and gives him the right to maintain an action thereupon in his own name.

988. Any debenture may contain a stipulation to the effect that the sum annually carried to the sinking fund, be with the consent of the lender, returned to such lender or his representatives, instead of being invested in the manner provided by the by-law. In any such case the debenture is not redeemable at the delay fixed by the by-law, and it is deemed to have been paid in full and discharged by the payment of the annual amount of the interest and of the sinking fund specified in such debenture.

989. The council of any corporation which, either before or after the coming into force of this code, issued debentures redeemable at the expiration of a certain delay, may, with the consent of the holder, exchange the same for debentures of equal value, payable in the manner set forth in the preceding article.

990. (*As amended by 45 Vic., c. 36, s. 9.*) The secretary-treasurer of any corporation the council whereof have passed a by-law for the purpose of raising money by the issue of debentures, must before the negotiation, sale, or promise of sale thereof, transmit to the registrar of the registration division in which such municipality is situated and to the provincial secretary, an authentic copy of the by-law authorizing the issue of debentures together with a return shewing:

1. The nature and object of such by-law ;
2. The amount to be borrowed thereunder ;
3. The number of debentures to be issued ;
4. The amounts thereof respectively ;
5. The dates at which the same respectively fall due ;

6. The value of the movable and immovable property belonging to the corporation ;

7. The amount of the privileges and hypothecs to which the movable and immovable property of the corporation is subject ;

8. The amount of the valuation of the taxable property in the municipality ;

9. The annual rate of assessment per dollar required to liquidate the debentures.

991. The secretary-treasurer of every corporation which, before the promulgation of this code, shall have issued debentures without complying with the two first sections of chapter eighty-four of the Consolidated Statutes of Canada, must transmit, within three months after the coming into force of this code, to the registrar of the registration division in which the municipality is situated, authentic copies of all the by-laws theretofore made for the purposes of raising money by the issue of debentures, together with a return shewing :

1. The nature and object of each by-law authorizing or ordering an issue of debentures ;

2. The amount of the debentures issued ;

3. Their respective amounts ;

4. The sums already paid or redeemed by the corporation on account of such debentures ;

5. The balance due and payable on each of the same ;

6. The dates at which they respectively fall due ;

7. The annual rate of assessment necessary to discharge them ;

8. The value of the movable or immovable property belonging to the corporation ;

9. The amount of the privileges and hypothecs to which the immovables of the corporation are subject.

10. The amount of the valuation of the taxable property of the municipality.

992. The registrar must receive, file and keep in his office, the by-laws which are transmitted to him in virtue of the two preceding articles, and register them in a book kept for that purpose.

993. The by-laws and returns registered or filed in the registrar's office, and all his books of entry are open to the examination of any one desiring to inspect the same during office hours, on payment of the fees established by the following article.

994. The following fees are payable to the registrar for any services required by the articles of this section :

1. For the registration of an authentic copy of any municipal by-law..... \$2.00
2. For the registration of any report transmitted under articles 990 and 991..... \$1.00
3. For search, inspection and examination of each copy of a by-law, of the entries which refer thereto. \$1.00

995. Every secretary-treasurer who neglects or refuses to comply with articles 990 or 991, within the required time, incurs a penalty not exceeding two hundred dollars, and in default of payment, imprisonment until payment of the fine and costs, which imprisonment ends on payment of the fine and costs and must not, however, in any case exceed twelve months.

996. In any action upon a municipal debenture, it is neither necessary to allege nor prove the notices, by-laws, statutes and other proceedings in virtue of which such debenture was issued.

997. Every municipal debenture issued under a by-law approved of by the lieutenant-governor in council, whether before or after the coming into force of this code, is valid, and the amount thereof may be recovered in full, notwithstanding that such debenture was issued illegally and irregularly.

TITLE ELEVENTH.

SALE OF LANDS LIABLE FOR MUNICIPAL TAXES IN DEFAULT OF PAYMENT.

CHAPTER FIRST.

SALE AND ADJUDICATION OF LANDS.

998. (*As amended by 45 Vic., c. 35, s. 32.*) The secretary-treasurer of every county council must, before the eighth day of the month of January in each year, from the statements transmitted to the office of the council under article 373, prepare a list shewing :

1. The description of all the lands situated in the county municipality, on account of which municipal or school taxes are due, together with the names of the owners as mentioned in the valuation roll ;

2. Opposite the description of such lands, the amount of the taxes for which they are liable.

Such list is accompanied by a public notice, setting forth that such lands are to be sold at public auction, at the place where the sessions of the county council are held, on the first Wednesday of the month of March next, at ten o'clock in the forenoon, in default of payment of the taxes for which they are liable and the costs incurred (1).

(1) **HELD** :—That the claim of a corporation is extinguished towards the debtor by the sale by an official assignee of the property affected.—**BLAIN vs CORPORATION OF GRANBY, V *Revue Légale*, 180.**

HELD :—That a corporation can be called in a case to guarantee a rate-payer whose property it had sold for taxes which had been paid, when this rate-payer who has transferred the same property to a third party, is himself called to guarantee by his purchaser who is troubled in his possession by the party who purchased from the corporation, and that, even more than two years after the municipal auction sale.—**WURTELE vs CORPORATION OF THE TOWNSHIP OF GRANTHAM, VI *Revue Légale*, 548.**

999. The list and the notice which accompanies it must be published in the ordinary manner, and also twice in the *Quebec Official Gazette*, and in one or more newspapers, during the month of January.

1000. At the time appointed for the sale, the secretary-treasurer of the county council, or some other person acting for him, sells to the highest bidder, those lands described in the list upon which taxes are still due, after making known the amount to be raised on each of such lands, including therein a part of the costs incurred for the sale, proportionate to the amount of the debt (1).

1001. Any person offering then and there to pay the amount of the moneys to be raised together with the costs, for the smallest portion of such lands, becomes the purchaser thereof, and such portion of the land must be at once adjudged to him by the secretary-treasurer who sells such portion of the property as appears to him best for the interest of the debtor.

1001a. The secretary-treasurer shall be entitled to ten cents for each hundred words or figures, for all notices, lists and other documents in relation to the sale of lands indebted for taxes, and further to the repayment of any sum advanced by him to defray the cost of publication, in the *Quebec Official Gazette*, and in other journals, and to one dollar and fifty cents for each certificate of adjudication, or for every deed of sale, and moreover the costs of the registration

(1) **Held** :—That the sale for municipal taxes of lots belonging to a resident, advertised and sold by the defendant as belonging to a non-resident, is null and confers no rights to the purchaser. The latter being troubled, has right to call the local corporation and the county corporation to guarantee him, even after two years have elapsed since the date of the sale ; the two corporations pleading themselves this nullity must be condemned as *garantis* to pay the costs, each one half.—**BARTLEY VS BOON AND ANOTHER**, oppts., V *Quebec Law Rep.*, 33.

thereof, until such time as such fees are otherwise established by a resolution of the county council.

1002. The purchaser of any land or portion of land must pay the amount of his purchase money immediately upon the adjudication thereof.

In default of immediate payment the secretary-treasurer either at once puts up the land for sale or adjourns the sale to the following or any other day within eight days, by giving all persons present notice of such adjournment in an audible and intelligible voice.

1003. If at the time of the sale no bid is made, or if all the lands advertised cannot be sold on the first Monday in March, the sale must be adjourned to the following or any other day within eight days, in the manner set forth in the last provisions of the preceding article.

1004. (*As amended by 39 Vic., c. 29, s. 17.*) On payment by the purchaser of the amount of his purchase money, the secretary-treasurer sets forth, in a certificate made in duplicate and signed by himself, the particulars of the sale, and delivers a duplicate of such certificate to the purchaser.

The purchaser is thereupon seized and possessed of the land adjudged, and may enter into possession thereof, subject to the same being redeemed within the two years next following, and to constituted ground rents.

The purchaser, however, cannot carry off timber from such land during the first year he is in possession thereof.

1005. The corporation of the local municipality, in which the immovables put up for sale are situated, may bid at the sale of such immovables and may become the purchaser thereof, through the mayor or

other person authorized by the council, without being held to pay in forthwith the amount of the purchase money.

1006. A list of lands sold under the provisions of this title, setting forth the name and residence of the purchaser and the price of the sale, must be transmitted by the secretary-treasurer of the county council to the office of every local municipality in which such lands are situated, within the fifteen days next after the adjudication; and the secretary-treasurer of the local council must, without delay, give a special notice to the proprietors or occupants of such lands, of the sale thereof and of the particulars set forth in the list transmitted by the secretary-treasurer of the county.

1007. If within two years from the day of the adjudication, the land adjudged has not been brought back or redeemed according to the provisions of the following chapter, the purchaser remains the irrevocable proprietor thereof.

1008. Such purchaser, upon exhibiting the certificate of his purchase and upon proving the payment of all municipal taxes which, in the meantime, have become due thereon, is entitled, at the expiration of two years' delay, to a deed of sale from the corporation of the county municipality within the limits of which such land is then situated.

1009. (*As amended by 39 Vic., c. 29, s. 18.*) The deed of sale is executed in the name of the corporation of the county by the secretary-treasurer, in the presence of two witnesses who sign it, or in minute form before a notary.

1010. The deed of sale must be registered with due diligence, on the demand of the warden or of the secretary-treasurer. (1)

(1) **Held:**—10. That the deed of municipal sale must not only be registered, but that the purchaser must also take possession

1011. The costs of the deed of sale and of the registration thereof, are payable by the purchaser, and are exigible before the deed is signed.

1012. All the rights acquired by the purchaser pass to his heirs or legal representatives.

1013. (*As amended by 39 Vic., c. 29, s. 19.*) The sale made under the provisions of this chapter is a title which conveys the ownership of the land adjudged, and it vests in the purchaser all the rights of the original owner and purges the land from all privileges and hypothecs whatsoever, to which it may be subject, except claims to constituted ground rents, to seigniorial rights and to rents substituted therefor, and the amounts for which such land may be encumbered for the payment of municipal debentures issued in aid of railways and other public undertakings, either before or after the coming into force of this code; and except also, the rights of trustees for the amount of any assessment imposed on such land for defraying the cost of building or repairing any church, vestry, parsonage or cemetery, provided that at least eight days before such sale, the chairman of the trustees has lodged with the secretary-treasurer of the county, whose duty it is to make such sale, a statement attested under oath, before a justice of the peace, and establishing the amount of such assessment for which the land is liable.

In all cases, however, in which the land in question has been adjudged and sold before the issue of letters-patent from the crown, such sale merely vests in the purchaser the right of pre-emption or other rights already acquired in relation to such land.

of the property.—20. That the purchaser from an original proprietor who has taken possession of the property and has had registered his deed of sale shall not be troubled in the property, possession and usage thereof by a purchaser, at a municipal sale, who has not had his title registered and has not taken possession of the property.—*CAYE vs. PELLERIN, II Revue Légale, 44.*

1014. If the land sold does not exist, the purchaser is merely entitled to recover the sum paid by him, with interest at the rate of fifteen per cent per annum.

If the adjudication or sale is declared null on any demand brought to set aside the same or in any other cause or contestation, the purchaser can only exact repayment of the purchase money paid by him, together with the expenses of necessary repairs and of improvements which have increased the value of the land up to such value, unless he prefers to remove the same, with interest upon the whole amount reclaimed at the rate of fifteen per cent per annum.

1015. The action to annul a sale of land made in virtue of the provisions of this chapter, or the right of calling in question the lawfulness thereof, is prescribed by two years from the date of such adjudication.

This right may be exercised by the creditor before any competent court in any manner which he deems desirable, article 100 of this code to the contrary notwithstanding.

1016. If any land described in the list published under article 999 is advertised to be sold by the sheriff, the secretary-treasurer of the county council cannot sell such land, but must, without delay, transmit to the sheriff a statement of the sums due for taxes and cost of advertising, on account of such land, which sums are paid out of the proceeds arising from the sale made by the sheriff.

1017. Nevertheless if on the first Monday of March the proceedings of the sheriff on the sale have been discontinued, the secretary-treasurer may sell the land in the usual manner.

1018. The municipal corporation, in the interest of which the sale of any land by the secretary-treasurer of the county ought to be made, may, in the case in which such land is advertised to be sold by the sheriff,

and the proceedings are suspended, intervene in the cause and ask and obtain the adoption of any step having for object the rendering of a final judgment.

1019. The demand to set aside or to annul the sale made in virtue of these provisions and any action to enforce any claim arising from such sale can be instituted only against the municipal corporation, the council or officers of which are in default.

1020. The sale made under the authority of the provisions of this title may be rescinded, and annulled with the consent of the municipal corporations interested, the owner and the purchaser.

1021. No land sold in default of payment of taxes, under the authority of the provisions of this title, can be resold under the authority of the same provisions in the month of March of the following year.

CHAPTER SECOND.

REDEMPTION OF LANDS ADJUDGED.

1022. The owner of any land sold under the provisions of the preceding chapter, may, within the two years next following the day of the adjudication, redeem the same, by reimbursing to the secretary-treasurer of the council of the county municipality in which such land is situated, the amount laid out for the purchase of such land, with interest, at fifteen per cent per annum, every fraction of a year being reckoned as a year.

1023. Any person, whether authorized or not, may redeem or recover such land in the same manner, but only in the name and for the benefit of the person who was the proprietor thereof at the time of the adjudication.

When the redemption is made by a person not specially authorized, the secretary-treasurer, in the receipt which he gives in duplicate, sets forth the names, quality and domicile of the person who effected the redemption.

Such receipt entitles the person mentioned therein to be reimbursed the amount paid by him with interest at the rate of eight per cent, and secures him a privileged hypothec, ranking next after municipal taxes, on the land in question, for the reimbursement of such money, after being registered in the proper registration division, any provisions contained in articles 1994 and 2009 of the civil code to the contrary notwithstanding.

1024. The secretary-treasurer must, within fifteen days after the redemption is effected, give special notice thereof to the council of the local municipality in which such land is situated and to the purchaser, and, on demand, remit to the latter the amount paid into his hands, less two and a half per cent on the purchase money, for his fees.

1025. The purchaser may compel the owner, or the person who redeems the land in the name of the owner, to indemnify him for all useful repairs and improvements made by him on the land so redeemed, unless he removes the same, and also to reimburse him the amount of the taxes paid, and of the public or municipal work performed on account of such land, with interest on the whole at the rate of fifteen per cent per annum, every fraction of a year being reckoned as a year.

This claim bears a privilege in favor of the purchaser upon the land in question.

The purchaser may retain possession of the land redeemed until payment of such claim.

BOOK THIRD.

SPECIAL PROCEEDINGS.

TITLE FIRST.

EXECUTION OF JUDGMENTS RENDERED AGAINST MUNICIPAL CORPORATIONS.

1026. Whenever a copy of a judgment, condemning a municipal corporation to pay a sum of money, has been served at the office of the council of such corporation, the secretary-treasurer must forthwith pay the amount thereof out of the funds at his disposal, on the authorization of the council or of the head of the council according to the rule laid down in article 160.

1027. If there are no funds, or if those at the disposal of the secretary-treasurer are not sufficient, the council must, immediately after the service of the judgment of the court, order the secretary-treasurer, by a resolution, to levy on the taxable property of the municipality, liable for such judgment, a sufficient sum to pay the amount due with interest and costs.

1028. The court which rendered the judgment may on petition, presented either in term or in vacation, grant, from time to time, to the municipal council, any delay which it deems necessary to levy the amount of money required.

1029. If the judgment has not been satisfied within two months after the service thereof at the office of the council, or at the expiration of the delay granted by the court or agreed upon by the parties, the person in whose favor such judgment was rendered, or his attorney, may, on producing the return of the service of such judgment at the office of the council, and on a

requisition in writing for such purpose, obtain the issue of a writ of execution from the court against the corporation in default, returnable before the same tribunal, so soon as the amount of the judgment and costs has been levied.

1030. Such writ is attested and signed by the clerk or prothonotary, sealed with the seal of the court, and addressed to the sheriff of the district in which such municipality is situated, who is enjoined by the same among other things :

1. To levy from the corporation, with all possible despatch, the amount of the debt with interest and costs of the judgment as well as of the execution ;

2. In default of immediate payment of the corporation :

To apportion the sums to be levied on all the taxable property in the municipality liable for such judgment, in proportion to its value as it appears by the valuation roll, with the same powers and obligations and under the same penalties as the councils and the secretary-treasurer to whom he is by right substituted for the levying of such money.

If the judgment has been rendered against a county corporation, to make forthwith an apportionment on all the local corporations of the county, and to transmit immediately a copy to the office of the council of each of such corporations.

To prepare without delay, and at the same time as the apportionment in the case mentioned in the preceding provision, according to the rules prescribed by article 955, a special collection roll for each local municipality in which money must be levied under the authority of such writ,

To publish such special roll in the municipality, in the manner required by article 960,

To exact and levy the amounts entered on the

special collection roll, in the manner and within the delays prescribed by articles 960 and 961,

In default of the payment of such amounts by the persons who are bound so to do, to levy the same with costs, on their movable property, in the manner prescribed by articles 962 to 970 inclusive,

To sell the real estate liable for such amounts, in default of their payment, on the first Monday of the following March in the manner and according to the rules laid down in the foregoing title, after having given the publications and notices required by the provisions of the same title,

3. To make a return to the court of the amount levied and of his proceedings, as soon as the amount of the debt, interest and costs has been collected, or from time to time as the court may order.

1030a. If the judgment has been rendered on debentures or coupons issued in virtue of a by-law made by a county council, in conformity with article 974 of this code, or of any special act to the same effect as such article, the apportionment to be made by the sheriff shall be in accordance with the terms of such by-law, and in the same proportion as the apportionment made by the county council under article 974; and in such case mention shall be made both in the judgment and the writ of execution that the county corporation has been condemned in virtue of such by-law.

1031. The sheriff is bound to execute without delay, either personally or by his officers, all the injunctions of such writ or of any other order subsequently issued by the court whose officer he still remains.

1032. The sheriff has free access to the registers ; valuation rolls, collection rolls and other documents deposited at the office of the council of every municipi-

pality in which he must levy money, and he may demand the services of the municipal officers of such council under the ordinary penalties.

1033. He must take possession of all the valuation rolls and other documents which are necessary to him in the execution of the judgment and orders of the court.

On the refusal or neglect of the municipal council or its officers to deliver up such documents, he is authorized to take possession thereof.

1034. If it is impossible for the seizing officer to obtain the valuation rolls, which should serve as a basis for the collection of the moneys, or, if there are no such valuation rolls, the sheriff must without delay proceed to make a valuation of the taxable property liable for such judgment ; and he is authorized to base the apportionment or the special roll for the collection of the moneys to be levied on such valuation as if it were the valuation roll in force for such municipality.

The costs incurred in making such valuation are taxed by the court from which the writ issued, form part of the costs of execution, and are recoverable from the local corporations in default.

1035. The sale and adjudication of real estate by the sheriff, in default of payment of the amount specified in the collection roll made by him, have no other effects than those mentioned in the preceding title.

The deed of sale of the land is given by the warden of the county municipality in which such land is then situated, in the manner prescribed in the preceding title, at the expiration of two years, if the redemption of the same has not in the meantime been effected.

1036. The fees, costs and disbursements of the

sheriff are taxed at the discretion of the judge of the court from which the writ of execution issued.

1037. The sheriff must transmit a copy of his special collection roll, and any other list or document whereof he has taken possession, to the office of the council to which it belongs, after having levied the whole amount set forth in the writ of execution, together with interest and costs.

1038. Arrears due, in virtue of the apportionment or of the special collection roll of the sheriff, belong to the corporation, on behalf of which they ought to be levied, and may be recovered by such corporation, in the same manner as any other municipal tax.

If any surplus remains in the hands of the sheriff it belongs to the corporation.

1039. If the corporation, against which any judgment has been rendered, ordering the payment of any sum of money, holds property in its own name, such property may be seized and taken in execution in the ordinary manner prescribed in the code of civil procedure.

1040. The sheriff may obtain from the court any order calculated to facilitate and ensure the complete execution of the writ which has been addressed to him.

1041. If any land advertised to be sold by the sheriff under these provisions, is advertised to be sold on the same day by the secretary-treasurer of the county, the latter cannot sell the land, but must forthwith transmit to the sheriff a statement of his claim and costs, which statement must be added to the amount claimed by the sheriff and levied by him at the same time as such amount.

TITLE SECOND.

RECOVERY OF PENALTIES IMPOSED IN VIRTUE OF THIS
CODE.

CHAPTER FIRST.

GENERAL PROVISIONS.

1042. Penalties imposed by municipal by-laws, or by the provisions of this code, are recoverable either before the magistrate's court of the county or before the circuit court of the county or district, within the limits of which they have been incurred, or before any justice of the peace residing in the municipality, if there is one, if not, before any justice of the peace resident in a neighboring municipality in the district. (1)

1043. All penalties incurred by the same person may be included in the same suit.

1044. Whenever, under the provisions of this code or of municipal by-laws, a penalty is imposed for each day during which the same are contravened, such penalty can be recovered for the first day only, unless special verbal or written notice has been given to the person contravening the same. If such notice is given the penalty may also be recovered for each day there after on which such contravention continued.

1045. Every suit for the purpose of recovering such penalties must be begun within six months from

(1) **Held:**—That in an action instituted under arts. 398 and 1042, M. C., for the value of work done on a by-road, a justice of the peace, residing in a municipality other than the one where the defendant resides, has no jurisdiction, if it does not appear by the record that there is no justice of the peace in the municipality where the defendant resides. — *LAMBERT & LAPALISSE, VI Revue Légale, 65.*

the date when they were incurred, after which period the same cannot be brought.

1046. Such prosecution may be brought by any person of age in his own name, or by the head of the council in the name of the municipal corporation. (1)

1047. Any suit brought in virtue of the provisions of this title may be decided on the oath of one credible witness.

1048. Penalties recovered in virtue of municipal by-laws or the provisions of this code, belong, unless it is otherwise provided, one-half to the prosecutor, and the other half to the municipal corporation.

If the prosecution has been brought in the name of the corporation, the penalty belongs wholly to the corporation.

If the penalty is due by the corporation, it belongs wholly to the prosecutor. (2)

1049. (*As amended by 39 Vic., c. 29, s. 21.*) In default of payment of the fine inflicted by the court, and the costs, within fifteen days from the rendering of the judgment, the property of the person so condemned,

(1) HELD:—1o. That under art. 1046, M. C., as well as under s. 64, c. 29 C. S. L. C., it is not an action *qui tam*, but a popular action, which may be instituted by any person in age, in its own name, or by the head of the council, in the name of the municipal corporation;—2. That it is by *exception to the form* that is to be met an action alledged to have been taken in the name of one in whose name it should not have been taken, and not by demurrer as made in the present case;—3. That the fine and damages cannot be claimed in the one and same action, because these grounds of demand tend to condemnations of different nature.—*LABELLE vs. GRATTON*, VII *Revue Légale*, 325.

(2) HELD:—That he who sues *qui tam* must do so as well in his own name as in the name of the corporation to whom belongs a portion of the fine.—*GRAHAM vs. MORISETTE*, V *Quebec Law Rep.*, p. 546.

shall be seized and sold, up to the amount of the penalty and costs, and in default of property sufficient, the person condemned shall be imprisoned for any time not exceeding thirty days, which imprisonment ends, however, on payment of the sum due.

Such imprisonment discharges the person who undergoes it from the obligation of satisfying the judgment against him.

1050. (*As amended by 39 Vic., c. 29, s. 22.*) The plaintiff or the complainant, whose demand or complaint has been dismissed with costs, is bound to pay the costs, under penalty of seizure or of imprisonment in the manner and within the delay prescribed in the preceding article.

1051. Articles 1045, 1046, 1048, 1049 and 1050, do not apply to suits brought to recover moneys which, according to the provisions of this code, may be recovered in the same manner as the penalties imposed by this code.

CHAPTER SECOND.

OF PROSECUTION BEFORE JUSTICES OF THE PEACE.

1052. Prosecutions brought before justices of the peace, in virtue of article 1042, are heard and decided by them, according to the usual rules of procedure laid down respecting summary orders and convictions, except in so far as the same are inconsistent with the provisions of this title.

1053. Such suits need not be begun by the affidavit or deposition on oath of the plaintiff or complainant, provided always that the purport of the complaint or demand is sufficiently set forth in the writ or in a declaration annexed thereto.

1054. The record of every suit must be remitted

by the person in whose custody the same is, to the justice of the peace, upon his order, in cases where there is an appeal from the judgment to the circuit court.

1055. There must be an interval of at least two juridical days between the day of the service of the summons and that of the return.

1056. On the day of the return of the summons or of the warrant, the justice of the peace who has signed the summons or the warrant, may hear and decide the case alone.

He may nevertheless require the assistance of any other justice of the peace having jurisdiction within the district.

1057. The returns of service made by a bailiff are given under oath of office.

1058. The justice of the peace or the clerk must take notes of the important parts of the evidence.

These notes signed by the sitting justice of the peace are part of the record.

1059. The judgment of the court may be executed at the expiration of fifteen days from the date thereof.

1060. Any constable or police officer may, and must, if he is so required by the head or by any other member of the council, or by the council itself apprehend or arrest at sight all persons found contravening the provisions of any municipal by-law punishable by fine, if it is so ordered by the by-law, and bring them before any justice of the peace to be dealt with according to law.

TITLE THIRD.

APPEALS TO THE CIRCUIT COURT.

1061. (*As amended by 39 Vic., c. 29, s. 23, by 41-42 Vic., c. 10, s. 36, by 43-44 Vic., c. 28, s. 1, and by 44-45*

Vic., c. 22.) An appeal lies to the circuit court of the county or of the district :

1. From every judgment rendered by justices of the peace in suits brought under the provisions of this code or of municipal by-laws ;

2. From every decision given by a county council respecting any *procès-verbal* made and homologated or any act of apportionment amended under the authority of such council sitting otherwise than in appeal.

3. From any decision given by a municipal council in virtue of articles 734, 738, 746, 746*a* respecting the valuation roll, whether the decision be rendered by the council, of its own motion, or on complaint produced before it.

Such appeal lies also whenever the council of a local municipality has neglected or refused to take cognizance of any written complaint made in virtue of article 735, or to obtain the revision and the amendment of the valuation roll in conformity with articles 746 and 746*a*, within thirty days after the expiration of the delay in which it might have taken cognizance thereof (1).

The costs of appeal shall be taxed at the discretion of the judge, for or against such of the parties, municipal corporation or councillors personally, as he shall deem advisable, and shall be recoverable under a writ of execution issued in the usual manner.

1062. The right of appeal also exists from every decision given by a board of delegates under any form whatever, to the circuit court of the county sitting in one of the counties, the corporation whereof the delegates represent or to the circuit court of the district.

(1) **Held** :—That an appellant under article 1061 of the municipal code, as amended by 39 *Vic., c. 29, s. 23*, cannot examine fresh witnesses in support of the appeal.—**GIROUX VS CORPORATION OF ST. JEAN CHRYSOSTOME, V Q. L. R., 97.**

If the municipalities represented by the delegates are situated in more than one district, an appeal may be brought to the circuit court of any of such districts.

1063. The word judgment employed in the following provisions of this title includes also the decisions rendered by a county council or a board of delegates.

1064. (*As amended by 39 Vic., c. 29, s. 2 and s. 24.*) The party who desires to appeal therefrom, must within thirty juridical days after the judgment is rendered :

1. Give an ordinary notice of such intention to the justice of the peace or to one of the justices of the peace who rendered such judgment, or to their clerk ; or at the office of the municipal council, if any municipal council is in question ; or at the office of the council if a decision of a county council is in question, or to the secretary of the board of delegates, if the appeal is from a decision of such board ;

2. Furnish, before the clerk of the court where the appeal is brought, good and sufficient security to effectively prosecute the said appeal, to satisfy the judgment and to pay the damages awarded, and costs incurred, as well of the inferior court, or the board of delegates, as in appeal, in the event of the judgment being confirmed.

1065. Sureties must, to the satisfaction of the clerk justify their sufficiency, to the amount of at least one hundred dollars, over and above all debts, and under oath, if the clerk deems proper.

One surety is sufficient.

1066. The appeal is brought before the court by means of a writ of appeal, signed by the clerk, setting forth that the appellant complains of having been aggrieved by the judgment appealed from, and com-

manding the justice of the peace or one of the justices of the peace by whom such judgment was rendered, or their clerk, or the office of the council if a decision of a county council is in question, or the secretary of the board of delegates if the appeal is from a decision of such board, to transmit the record in the cause.

1067. (*As amended by 39 Vic., c. 29, s. 2.*) A copy of the writ of appeal certified by the clerk or by the appellant's attorney together with a notice of the day when it will be presented to the court, must be served within the thirty days next after the rendering of the judgment, on the respondent or his attorney, and on the justice of the peace, or on one of the justices of the peace, who rendered the same, or on their clerk, or at the office of the council if the decision of a county council is in question, or on the secretary of the board of delegates if the decision of such board is in question (1).

1068. Between the day of such service and that fixed for presenting the petition in appeal to the court, the justices of the peace, or the secretary-treasurer or secretary, as the case may be, must transmit the record in the case to the clerk of the circuit court, with a certificate testifying that the documents transmitted are all the papers, documents and evidence relating to the case.

1069. The execution of the judgment from which an appeal has been instituted is suspended until the decision of the circuit court, if a copy of the writ of appeal has been served, within the prescribed delay, upon the justices of the peace, or upon their clerk, or at the office of the council if the appeal is from a

(1) **HELD:**—That the writ of appeal, under article 1067 of the Municipal Code, from a decision of a board of delegates homologating a *procès-verbal*, need not be served on the parties who petitioned for the work ordered.—**CANTWELL VS THE CORPORATION OF THE COUNTY OF CHATEAUGUAY XXIII L. C. J., 263, § 1.**

decision of a county council, or upon the secretary of the board of delegates if one of their decisions is in question; in default thereof the judgment may be carried into effect.

1070. (*As amended by 39 Vic., c. 29, s. 2.*) The writ of appeal must be returned to the circuit court on or before the first juridical day of the term following the expiration of the forty days after the judgment was rendered, in default thereof the appeal lapses.

The appellant must produce on the day of the return of the writ of appeal, together with a return of the bailiff establishing the necessary services, a petition setting out summarily the title of the cause, the date of the judgment, the notice given, the security furnished, the grounds of appeal, with conclusions praying for the setting aside of the judgment and for the rendering of that which ought to be rendered (1)

1071. The appeal is heard and decided in summary manner, and no fresh witnesses can be heard unless the appeal is from the decision of a county council or board of delegates.

1072. The judgment can be set aside only when a substantial injustice has been committed, and never by reason of any trifling variance or informality.

If objections are raised which do not effect the merits of the cause, the court may amend the procedure, which is thereupon executed as though it had been regular in the first instance.

1073. If the judgment is confirmed, the record in

(1) **HELD:**—That under art. 1070 as amended by 39 Vic., c. 29, s. 2, the writ of appeal should be returned to the circuit court on the first day of the term following the expiration of 40 days after the decision. — **CANTWELL VS THE CORPORATION OF THE COUNTY OF CHATEAUGUAY XXIII L. C. J., 263, § 2.**

pality in which he must levy money, and he may demand the services of the municipal officers of such council under the ordinary penalties.

1033. He must take possession of all the valuation rolls and other documents which are necessary to him in the execution of the judgment and orders of the court.

On the refusal or neglect of the municipal council or its officers to deliver up such documents, he is authorized to take possession thereof.

1034. If it is impossible for the seizing officer to obtain the valuation rolls, which should serve as a basis for the collection of the moneys, or, if there are no such valuation rolls, the sheriff must without delay proceed to make a valuation of the taxable property liable for such judgment ; and he is authorized to base the apportionment or the special roll for the collection of the moneys to be levied on such valuation as if it were the valuation roll in force for such municipality.

The costs incurred in making such valuation are taxed by the court from which the writ issued, form part of the costs of execution, and are recoverable from the local corporations in default.

1035. The sale and adjudication of real estate by the sheriff, in default of payment of the amount specified in the collection roll made by him, have no other effects than those mentioned in the preceding title.

The deed of sale of the land is given by the warden of the county municipality in which such land is then situated, in the manner prescribed in the preceding title, at the expiration of two years, if the redemption of the same has not in the meantime been effected.

1036. The fees, costs and disbursements of the

sheriff are taxed at the discretion of the judge of the court from which the writ of execution issued.

1037. The sheriff must transmit a copy of his special collection roll, and any other list or document whereof he has taken possession, to the office of the council to which it belongs, after having levied the whole amount set forth in the writ of execution, together with interest and costs.

1038. Arrears due, in virtue of the apportionment or of the special collection roll of the sheriff, belong to the corporation, on behalf of which they ought to be levied, and may be recovered by such corporation, in the same manner as any other municipal tax.

If any surplus remains in the hands of the sheriff it belongs to the corporation.

1039. If the corporation, against which any judgment has been rendered, ordering the payment of any sum of money, holds property in its own name, such property may be seized and taken in execution in the ordinary manner prescribed in the code of civil procedure.

1040. The sheriff may obtain from the court any order calculated to facilitate and ensure the complete execution of the writ which has been addressed to him.

1041. If any land advertised to be sold by the sheriff under these provisions, is advertised to be sold on the same day by the secretary-treasurer of the county, the latter cannot sell the land, but must forthwith transmit to the sheriff a statement of his claim and costs, which statement must be added to the amount claimed by the sheriff and levied by him at the same time as such amount.

jacent lands to do the same, or in any other manner; in default of any provisions being made, article 775 applies ;

The councils of these municipalities may by *procès-verbal*, define the time during which any by-road shall be built, without it being obligatory on the corporation to build any particular part of such road in any special time.

1081. (*As amended by 35 Vic. c. 8, s. 9, and by 36 Vic. c. 21, s. 33.*) The councils of the following local municipalities possess the functions and powers conferred upon county councils, in addition to those conferred upon local councils, and they do not form part of the county municipalities within which they are situated.

The municipality of the parish of *St. Pierre de la Pointe aux Esquimaux* ;

The municipality of *Ste. Anne des Monts*, and

The municipality of the *Magdalen Islands*, in the county of *Gaspé* :

The township of *St. John* ;

The municipality of *Hébertville* ;

The municipality of *Roberval*, and every municipality formed hereafter to the west of the townships of *Kenogami* and *Lartigue*, in the county of *Chicoutimi*, so long as there are not five municipalities to the west of such limits ;

The municipality of *Tadousac*, and the municipality of *Escoumins*, in the county of *Saguenay* ;

The municipality of *l'Isle aux Coudres*, in the county of *Charlevoix* ; and

The municipality of *Crane Island*, in the county of *Montmagny*.

As soon as five municipalities shall have been formed in that part of the county of *Chicoutimi*, to the west

and south-west of the townships of Kenogami and Lartigue, such five municipalities and those which may be formed subsequently to the west and south-west of such limits, shall compose the county council No. 2 of the county of Chicoutimi; and all the municipalities situated to the north, the east and the south-east of such limits shall compose the county council No. 1 of Chicoutimi, the municipalities which shall be hereafter formed to complete the number five above mentioned, must be established by the Lieutenant-Governor, on petition to that effect.

The county of Montmorency continues to form two distinct county municipalities, as follows: the local municipalities of that part of the county which is situate on the north shore of the river St. Lawrence, form a county municipality under the name of the "municipality of the county of Montmorency, number one," and those of the Island of Orleans form another county municipality under the name of the "municipality of the county of Montmorency, number two."

1082. The council of the municipality of the parish of St. Romuald of Etchemin possesses all the powers, conferred on the council of a village municipality, in addition to those of a council of a parish municipality.

1083. Nothing contained in this code is deemed to repeal chapter sixty-two, 22-28 Victoria, conferring certain powers of a county council on the municipal council of the parish of St. Colomb of Sillery, in the county of Quebec.

1084. The municipality of the parish of St. Germain in the county of Drummond, shall hereafter be known by the name of "the municipality of the Parish of St. Germain de Grantham."

1084a. (*Added by 36 Vic., c. 21, s. 34.*) The municipality of the parish of St. Roch of Quebec South,

shall be hereafter known as "the municipality of the parish of St-Sauveur de Québec."

1085. In the municipality of the Magdalen Islands, in the county of Gaspé, the poll for the general municipal elections in case of contestation, is not held on the day laid down in article 311, for the meeting of municipal electors, but is held on the fourth Monday, in the month of January, at ten o'clock in the forenoon, and on the following day, in the case set forth in article 322.

In addition to the poll held at Amhurst Harbour, the chief-place of the municipality, a poll must be held for the same purpose at each of the following places, at Etang du Nord in Grindstone Island, at House Harbour in All Right Island, and one in the Island known as Grosse-Isle.

The additional polls are held by persons appointed for each election by the council. Such persons have the same rights and powers, and are subject to the same obligations and penalties as the presiding officer at an election.

The electors can only vote at the poll held in the Island in which they are domiciled or at the poll assigned to them in virtue of the following provisions.

The inhabitants of Entry Island vote at the poll at Amhurst Harbour, those of Wolf Island at the poll at House Harbour, and those of Coffin and Bryon Island, at the poll at Grosse-Isle.

The provisions of this article apply also in the case of a by-law being submitted for the approval of the municipal electors.

Final Provisions.

1086. Chapter twenty-four of the consolidated statutes for Lower Canada and all amendments thereof:

Every municipal act, whether special or general, and its amendments, respecting corporations and municipalities, whether of a county, of a parish, of a separated township, of united townships, of a part of a parish or township, of a village, or of a town, save and except the cities and towns exempted under article 1 ;

Chapter twenty-five of the consolidated statutes for Lower Canada, chapter eighty-four of the consolidated statutes of Canada, sections seventy-five, seventy-six and seventy-seven of chapter sixty-six of the consolidated statutes of Canada, chapter eighteen of the statutes of the heretofore province of Canada, 27-28 Victoria, and chapter twenty-six of the consolidated statutes of Lower Canada, intituled : " An act respecting abuses prejudicial to agriculture " and its amendments, in so far as they relate to corporations governed by this code ;

And all other laws of the province in force at the time of the coming into force of this code, are repealed in all cases :

In which there is a provision therein having expressly or impliedly that effect ;—in which such laws are contrary to or inconsistent with any provision herein contained ;—and in which express provision is herein made upon the particular matter to which such laws relate.

Except always that as regards transactions, matters and things anterior to the coming into force of this code, and to which its provisions could not apply without having a retroactive effect, the provisions of law, which, without this code, would apply to such transactions, matters and things remain in force and apply to them, and this code applies to them only in so far as it coincides with such provisions (1).

(1) HELD :—That county councils have, as well as local councils, power to pass by-laws prohibiting the sale of intoxicating liquors ;—that the ten first sections of the 27-28 Vic. c. 18

1087. This code shall come into force on a day to be fixed by proclamation of the Lieutenant-Governor in council; and it shall from such period, have force and effect, any law to the contrary notwithstanding, derogating thereby from section ten of chapter seven of the statutes of Quebec, passed in the thirty-first year of Her Majesty's reign, and shall be known and cited under the name of "The Municipal Code of the Province of Quebec."

(Temperance act of 1864) have not been abrogated by art. 1086, M. C.;—HART VS LA CORPORATION DE MISSISQUOI, III *Revue Légale*, 170.

HELD:—That the local corporation who orders the sale of lands for taxes, etc., and the county corporation who sells them at its demand, are equally responsible and *garantes* of the illegalities and mistakes of their respective secretary-treasurers towards the purchaser. In the present case, the two corporations pleading themselves these irregularities and mistakes of the county corporation depositing in court the price of sale, the action *en garantie* of the purchaser must be maintained and the sale annulled even after the two years elapsed since the date of the sale.—BARTLEY VS BOON, XIX *Lower Canada Jurist*, 10.

The municipal code of the province of Quebec has not totally abrogated the provisions of the temperance act of 1864.—SAUVÉ VS THE CORPORATION OF THE COUNTY OF ARGENTEUIL, XIX *Lower Canada Jurist*, 119.

APPENDIX.

FORMS.

**No. 1. Forms in connection with articles 108, 144, 174
and 366.**

OATHS OF OFFICE.

Province of Quebec,
Municipality of

I, A. B., having been duly appointed (councillor, mayor, warden, secretary-treasurer, auditor, valuator, road inspector, rural inspector, *as the case may be*, of this municipality, make oath that I will well and faithfully discharge the duties of my office, according to the best of my judgment and ability. So help me God.

A. B.

Sworn this day of the month
of 18
at (place) before me the undersigned
(warden, mayor or justice of the peace.)

J. U.

Province of Quebec,
Municipality of

We, A. B., C. D., E. F., G. H., having been duly appointed (councillors, auditors, valuers, road inspectors, rural inspectors, *as the case may be*) of this municipality, make oath, each of us for himself, that we will well and faithfully discharge the duties of our office, according to the best of our judgment and ability. So help us God.

A.	B.
C.	D.
E.	F.
G.	H.

Sworn, etc.

J. U.

No. 4. Notice of the adjournment of a session ; form in connection with article 139.

Province of Quebec,
Municipality of

To

O. P., councillor,
Sir,

Special notice is hereby given you, by me, N. F., secretary-treasurer, that the general (*or* special) session of this council, held on the _____ has been adjourned from the absence of a quorum, until the _____ by D., E. and F. G., councillors, in conformity with article 139 of the municipal code of the Province of Quebec.

Given this _____ day of the month of _____ eighteen hundred _____

N. F.,
Secretary-treasurer.

No. 5. Special notice given to several persons at once.

Province of Quebec,
Municipality of

To

O. P., councillor,
C. J., councillor,
P. Q., councillor,
R. L., councillor,
M. N., valuator, etc.

Gentlemen,

Special notice is hereby given you by me, N. J., (*style*) that (*object of the notice, etc.*)

Given this _____ day of the month of _____ eighteen hundred _____

N. J.
(*style*).

No. 6. Form in connection with articles 219 and 220, 226 and 260, or 230.

CERTIFICATE OF THE SERVICE OF A SPECIAL NOTICE IN WRITING.

Province of Quebec,
Municipality of

I, the undersigned, A. J., (*style*), domiciled in (domicile) certify under my oath of office, that I served the special notice in writ-

ing on the other side hereof (or annexed to these presents) upon (name of the person to whom the notice is addressed) by personally delivering to himself a copy thereof,—or by delivering it unto a reasonable person of his domicile, or of his place of business,—or by delivering it unto R. S., his agent duly appointed, or to a reasonable person at the place of business of R. S., his agent duly appointed,—or by depositing a copy thereof, in the post office of this locality, in an envelope sealed (and registered, the postage prepaid, as the case may be)—or by affixing a copy thereof upon the door (or one of the doors) of his domicile, having found the doors closed, (or not having found any reasonable person in such domicile) between and o'clock in the
 , on
 day of the month of
 eighteen hundred

(If the notice is addressed to and served upon several persons, describe how it was served on each person.)

In testimony whereof, I give this certificate, this day of the month of
 eighteen hundred

his
 A. J., (style), or N. † J.,
 mark, affixed in presence
 of Y. Z.,
 Witness.

No. 7. Form in connection with article 220.

CERTIFICATE UNDER SPECIAL OATH.

Province of Quebec,
 Municipality of

I, the undersigned, P. T., (style) domiciled in (domicile) being duly sworn, do depose and say : that I served the within special notice in writing (or the special notice in writing hereunto annexed) upon (as set forth in the preceding form.)

In testimony whereof, I give this certificate, this
 day
 of the month of
 eighteen hundred

his
 P. T., (style), or P. † T.
 mark, affixed in presence of
 N. O.,
 Witness.

Sworn this
 day of
 18 }
 at (place) before me, the undersigned }
 Justice of the Peace (or Warden, etc.) }
 H. P.,
 Justice of the Peace.

No. 8. Form in connection with article 232.

PUBLIC NOTICE.

Province of Quebec,
Municipality of

To *(the persons to whom notice is given)*

Public notice is hereby given by N. B. *(style)* that *(the object for which notice is given, and time and place in which the persons summoned to comply with the notice must do so.)*

Given this day of eighteen hundred

his

N. B., *(style)*, or N. † B.

mark, affixed in presence of

N. O.,

Witness.

No. 9. Form in connection with article 692.

PUBLICATION OF A MUNICIPAL BY-LAW.

PUBLIC NOTICE.

Province of Quebec,
Municipality of

To the inhabitants of the municipality of

Public notice is hereby given by A. B., secretary-treasurer ;

That the council of this municipality, at a session *(insert here the heading of the by-law)* has passed a by-law respecting *(object of the by-law, and the day of its entry into effect, if it enters into force at a time fixed in its provisions.)*

(If the by-law has been submitted for the approbation of the municipal electors and of the lieutenant-governor in council add—)

And that such by-law has been submitted for the approval of the municipal electors of the municipality, and for that of the lieutenant-governor in council, in conformity with article—of the municipal code and has been approved by them, in the manner prescribed by the said code, to wit, by the municipal electors at a poll held on the day of the month eighteen hundred

Given this day of the month of eighteen hundred

N. B.,
Secretary-treasurer.

No. 10. Form in connection with article 102.

PUBLICATION OF ANY ORDER OF THE COUNCIL OTHER THAN A BY-LAW.

PUBLIC NOTICE.

Province of Quebec,
Municipality of

To the inhabitants (or other persons) of the municipality
of _____

Public notice is hereby given by A. B., secretary-treasurer, that the council has passed the following resolution :

(Insert here the whole of the resolution or order passed by the council, with its preamble.)

Given this day of the month of A. B.,
Secretary-treasurer.

No. 11. Form in connection with article 220.

CERTIFICATE OF PUBLICATION OF A SPECIAL NOTICE.

Province of Quebec,
Municipality of

I the undersigned, N. B., (*style*,) domiciled in the parish of (*or of the township of*,) certify under my oath of office that I published the within public notice (*or public notice hereunto annexed*) by posting up a copy thereof, at each of the following places, viz: (*places where the notice was posted up*). (*If it was read in conformity with article 234, add : and by reading the same (or causing to be read) in a loud and distinct manner, at*

on the _____ day of the _____ being the Sunday next
after the posting of such notice as aforesaid.)

In testimony whereof, I give this certificate, this
day of the month of eighteen
hundred

N. B.
(style.)

No. 12. CERTIFICATE GIVEN UNDER SPECIAL OATH.

Province of Quebec,
Municipality of

I, the undersigned, N. C., (*style*), domiciled in (*domicile*), being duly sworn, do depose and say that I have published the public notice hereunto annexed (*or the within public notice*), by posting

up a copy thereof at each of the following places, viz: (*places where the notice was posted.*) (*If the notice was read in conformity with article 234, add: and by reading the same, or causing the same to be read in a clear and intelligible voice, at the close of divine service on the* day of the being the Sunday next after the day of the posting of such notice as aforesaid.)

In testimony whereof, I give this certificate this day of the month of eighteen hundred

his
N. C. (*style*), or N. † C.
mark, affixed in presence of
N. O.,
Witness:

Sworn this day of the month
of 18 at (*place*) before me,
the undersigned, A. B., justice of the
peace (*or warden, etc.*)
A. B. }

MUNICIPAL BY-LAWS.

No. 13. By-law of the county council passed at a general session.

By-law No.

Province of Quebec,
Municipality of

At a general session of the municipal council of the county of held at (*place*) in this county, on *Thursday*, the day of the month of eighteen hundred in conformity with the provisions of the municipal code of the Province of Quebec, at which session were present the warden A. B., mayor of the municipality of the parish of and the following councillors, C. D., mayor of the municipality of the parish of E. F., mayor of the municipality of the village of and H. J., mayor of the municipality of the town of forming a quorum of the council, under the presidency of the warden of the council, (*or of C. D., councillor, in the absence of the warden.*)

It is ordained and resolved by by-law of the council as follows:

1. [*Provision of the by-law.*]

2. do

3. do.

[Seal,]

A. B., Warden.

or C. D., (President,)

No. 14. By-law of a local council passed at a general session.

By-law No.

Province of Quebec,
Municipality of

At a general session of the municipal council of [*name of the parish or township*] held at (*place*) in the said on Saturday, the day of the month of eighteen hundred , in conformity with the provisions of the municipal code of the province of Quebec, at which session were present Mr. Mayor, A. B., and councillors C. D., E. F., G. H., forming a quorum, under the presidency of Mr. Mayor [*or of C. D., in the absence of the mayor*]; it is ordained and resolved by by-law of the council, as follows:

1. [*Provision of the by-law.*]

2. do.

3. do.

[Seal.]

A. B. or C. D.,
Mayor, (president.)

No. 15. By-law of a council passed at a special session.

By-law No.

Province of Quebec,
Municipality of

At a special session of the municipal council of convened by (*name of the persons who have convened the session*) and held at (*place*) on Saturday, the day of the month of eighteen hundred in conformity with the provisions of the municipal code of the province of Quebec, at which were present, Mr. Warden (*or Mr. Mayor,*) A. B., and the councillors C. D., E. F., and G. H., forming the quorum of the council, under the presidency of Mr. Warden (*or Mayor*); the other councillors I. J., K. L., and M. N., having, after examination, received notice of the convocation of such session;

It is ordained and resolved by by-law of the council, as follows; etc.

RESOLUTION OF THE COUNCIL.

No. 16.—Form.

Province of Quebec,
Municipality of

At a session, etc., (*same preamble as in the case of municipal by-laws, unto the following words:*)

It is ordained and resolved by resolution of the council, as follows:

1. (*Provisions of the resolutions.*)

2. *dillo.*

(*Seal,*)

A. B., or C. D.
(Warden or Mayor.) President.

No. 17. Form in connection with article 149.

SURETY-BOND OF THE SECRETARY-TREASURER TAKEN SOUS SEING PRIVÉ.

Province of Quebec,
District of
County of

Whereas I, A. B., have been appointed secretary-treasurer of the municipal council of in the district of in the county of and whereas in conformity with the provisions of the municipal code of the province of Quebec, we, C. D., (*style and domicile,*) and E. F., (*style and domicile,*) have been approved of and accepted as the sureties of the said A. B., for the payment of all sums of money, for which he, the said A. B. may, in his quality of secretary-treasurer, be, by himself, or by any person for whom he is responsible, accountable towards the "corporation of (*name of the corporation*)" or towards any other person, including principal, interest and costs, as well as penalties and damages, to which he may become liable in the exercise of his office.

Know all men by these presents that we, the said A. B., C. D., and E. F., jointly and severally acknowledge ourselves firmly bound to repay and reimburse to "the corporation of (*name of the corporation*)" all sums for which the said A. B., by himself or by any person for whom he may be responsible, may, in the discharge of his office, become accountable towards the corporation or any other person in principal, interest, costs, penalties or damages; and for surety of the payment of such sums well and truly to be made, we do specially hypothecate for the sum of dollars the properties hereinafter mentioned, viz: the said A. B. a piece of land (*its cription of the i n n o v a b l e a c c e p t e d by the council,*) and the said C. D. a piece of land (*description of immovable.*)

Now the condition of this surety-bond is, that if the said A. B., do at all times, well and faithfully discharge the functions and duties of the office of secretary-treasurer to which he has been appointed, and accounts for, pays, or hands over to the said corporation or to any other person any sums of money for which he himself or any person for whom he is responsible, during the

holding of his office, is accountable, towards such corporation or person, in principal, interest, costs, penalties or damages, then this bond shall be null; otherwise it shall remain in full force and virtue.

Witnesses ; (Names of witnesses)	}	A. B. C. D. E. F.
G. H. J. H.		

OATHS OF SPECIAL CONSTABLES.

No. 18. Form.

I, A. B., do swear that I will well and truly serve our Sovereign Lady the Queen in the office of special constable for the
of without favor or affection, malice or ill-will; and that I will, to the best of my power, cause peace and good order to be kept and prevent all offences against the persons and properties of Her Majesty's subjects; and that while I continue to hold the said office, I will, to the best of my skill and knowledge, discharge all the duties thereof according to law; So help me God.

A. B.

Sworn, &c.

WARRANTS.

No. 19. Form in connection with article 963.

WARRANT OF SEIZURE FOR MUNICIPAL TAXES.

Province of Quebec,
Municipality of

The corporation of

vs.

A. B., (*name of the rate-payer indebted, his style and domicile.*)

To J. S., (residence) one of the bailiffs of the Superior Court of the Province of Quebec, acting in the district of

Whereas the said A. B. has been required, by the secretary-treasurer of the municipal council of , to pay into his hands, on behalf of the corporation of , the sum of , being the amount by him due to the said corporation for municipal taxes, as appears by the general (or special)

assessment roll published by the said secretary-treasurer, by notice given on the _____ day of the month of _____ eighteen hundred _____; and whereas the said A. B. has neglected or refused to pay to the secretary-treasurer, within the delay required by the municipal code of the Province of Quebec, the said sum of _____ dollars, &c., these are therefor to command you to seize, without delay, the goods and chattels of the said A. B., which are found within the limits of the municipality; and if within the space of eight days after such seizure, the aforesaid sum, together with the costs of seizure, is not paid, you shall sell the said goods and chattels so by you detained, and pay over the moneys arising from such sale unto the secretary-treasurer, that he may apply the same as by law directed; and if such seizure cannot be effected you shall certify the same unto me, to the end that such proceedings may be had therein as to law appertain.

Given under my hand, this _____ day of the month of _____ eighteen hundred _____ at _____ district of _____ N. C.,
(Mayor) or (Justice of the Peace.)

No. 20. Warrant of commitment on view.

Province of Quebec,
Municipality of _____

To all and any the constables and peace officers in the district of _____, and to the keeper of the (*house of correction, lock-up house, etc.*) at _____ in the district of _____

Whereas A. B. (*name and style,*) has, this day, during the election of local councillors for the municipality of (*or during any other meeting or proceedings,*) broken and disturbed the public peace (*here describe the manner,*) in the presence and within view of the undersigned, duly appointed to preside at the said election (*or to conduct such other proceeding*) and presiding thereat; and whereas I have adjudged the said A. B., for the said offence, to be imprisoned in the (*house of correction, lock-up house, etc.,*) for the time and space of _____ days;

These are therefore to command you, the said constables or peace officers, or any of you, in Her Majesty's name, forthwith to convey the said A. B. to the (*house of correction, lock-up house, etc.*) and there deliver him into the custody of the keeper thereof, together with this order.

And I hereby require you, the said keeper of the (*house of correction, etc.*), to receive the said A. B. into your custody in the

as by law directed, and may render the overplus, if any, on demand, to the said A. B., or others whom it may concern; and if no such distress can be found, then that you certify the same unto me, to the end that such proceedings may be had therein, as to law doth appertain.

Given under my hand at _____ in the said district, this
day of _____ eighteen hundred

Y. X.,
Mayor.

Any other warrant of distress executory *instantier*, may be served in the same form as the above, by changing the allegation of circumstances therein.

No. 22. FORM OF DEBENTURES.

Municipality of the (*as the case may be.*)

No. _____ cy. (*or*) stg. _____

This Debenture witnesseth that the corporation of (*as the case may be,*) under the authority of the Municipal Code of the province of Quebec, has received from (*name*) of (*domicile, profession or occupation*) the sum of \$ _____ cy. or stg., as a loan to bear interest from the date hereof _____ at the rate of _____ per centum per annum, payable half yearly on the _____ day of _____ and _____ at, _____ which sum of _____ the said _____ as a municipal corporation, hereby binds and obliges itself to pay on the _____ day of _____ at _____, to the said _____, or to the bearer hereof, and to pay the interest thereon half yearly as aforesaid, according to the *coupons* or interest warrant hereto attached.

In testimony whereof, I, _____, warden or mayor of the said corporation, being hereunto duly authorized, have hereunto affixed the common seal of the municipality, at _____ in the said (county, parish, city, &c., of _____) on this _____ day of _____ in the year of Our Lord, one thousand eight hundred and _____

.....

Mayor.

.....

Secretary-Treasurer.

QUEBEC LICENSE ACT.

Assented to 9th March 1878, and as amended by act 43-44 Vict., c. 11 and by 44-45 Vict., c. 4.

By act 43-44 Vict., c. 11, s. 1, the acts of this province 41-42 Vict., chap. 4, and 42-43 Vict., c. 3, were repealed.

CAP. III.

An Act to amend and consolidate the Quebec License act and its amendments.

[Assented to 9th March, 1878.]

WHEREAS it has become necessary to amend and consolidate "The Quebec License Act" and its amendments; Therefore, Her Majesty, by and with the advice and consent of the Legislature of Quebec, enacts as follows:—

INTERPRETATORY AND EXPLANATORY CLAUSE AND DEFINITIONS.

1. The terms and expressions following, wherever they occur, shall be interpreted to have the meaning hereinafter applied to them unless some special provision of the law clearly indicates a different meaning :

a. The words "intoxicating liquors" mean brandy, rum, whisky gin, and wines of all descriptions, ale, beer, lager beer, porter, cider, and all other liquors containing an intoxicating principle, and all beverages composed, wholly or in part, of any such liquors.

b. Temperance liquors are ginger beer, spruce beer, root beer, all kinds of syrups and similar liquids or beverages, simple or mixed, in which there is no intoxicating principle.

c. Houses of public entertainment are houses or places of public resort, established for the reception of travellers and of the public, where, in consideration of payment, food and lodging are habitually furnished. Such houses of public entertainment are inns and temperance hotels.

d. An inn, embracing those establishments also called hotels and taverns, is a house of public entertainment, where intoxicating liquors are sold.

e. (*As amended by 43-44 Vic., c. 11, s. 2.*) A temperance hotel is a house of public entertainment, in which no intoxicating liquors are sold.

f. A restaurant is a place of public resort, also known as saloon or refreshment room, where, in consideration of payment, food [without lodging] is habitually, or occasionally provided for the public, and where intoxicating liquors are sold.

g. A steamboat bar, is a place or apartment established for the sale of intoxicating liquors in a steamboat or other vessel ; the word vessel includes every craft.

h. A railway buffet, is a place or apartment within a railway station, where, in consideration of payment, food is habitually or occasionally provided for railway travellers, and intoxicating liquors are sold.

i. A tavern at the gold mines, is an inn kept within a radius of three leagues, from the place where gold mining is being prosecuted.

j. A liquor shop, is any store or shop, where intoxicating liquors are sold, without food or lodging being provided.

k. Liquor shops are divided, into wholesale and retail shops.

l. (*As amended by 43-44 Vic., c. 11, s. 2.*) A wholesale liquor shop is that wherein are sold, at any one time, intoxicating liquors, in quantities not less than two gallons, imperial measure, or one dozen bottles of not less than one pint, imperial measure, each.

m. (*As amended by 43-44 Vic., c. 11, s. 2.*) A retail liquor shop is that wherein are sold, at any one time, intoxicating liquors, in quantities not less than one pint, imperial measure.

n. Every delivery of intoxicating liquors, made otherwise than gratuitously, constitutes, in the sense of this law, a sale thereof.

o. The gratuitous character of the delivery is inferred from the circumstances under which the delivery is made and from the intention of the persons, respectively delivering and receiving the liquors.

p. Every delivery, not gratuitous, is considered as being that by sale, without its being necessary to prove the delivery of any payment in money therefor, or of any object having a pecuniary value, as price of the sale of such liquors.

q. The license to sell intoxicating liquors in an inn, restaurant, a steamboat bar, or railway buffet, includes the permission, that the liquors so sold be drunk on the premises ; but that privilege does not accrue to liquor shops, in which cases all liquor delivered must be consumed outside of such shops.

r. Pawning is the loan for a profit, either impliedly or expressly stipulated, in favor of him who lends a sum of money or any thing convertible into money, or having a pecuniary value, in taking a pledge to secure the restitution of the sum of money or thing loaned, with or without the profit aforesaid.

s. He who loans and receives the pledge is a pawnbroker ; he who receives the sum of money or things loaned and gives the pledge, is the pawner.

t. The business of pawnbroker is carried on, when such loans are habitually made.

u. To establish that such business is carried on, it is not indis-

pensably necessary that several loans secured by pledge should be proved, although such proof may be sufficient.

v. A single loan secured by pledge, preceded or followed by one or more loans, or accompanied or preceded or followed by circumstances which, in the opinion of the tribunal charged with the cause, establish the habit of making such loans, or the intention of carrying on the business aforesaid, constitutes, for the purpose of this law, sufficient proof that the lender follows the business of pawnbroking.

w. The Revenue officer appointed under the sixth clause of the Treasury Department Act, employed in the collection of the Revenue, and to whom, under the tenth clause of the said act, one or more of the portions of this Province erected into Revenue Districts have been assigned, and who has by this law the power to issue licenses thereunder, and who in the municipal code is called the collector of Inland Revenue, is called for the purpose of this law "License Inspector."

The word "district," when used alone, means one of the Districts so established under said tenth clause.

x. Organized territory is such portion of the territory of the province as is erected into a municipality, and non-organized territory is such portion of said territory which is not municipally erected.

y. The word "powder," means every explosive substance, whether powder for cannon or gunpowder, or mining powder, or other powder, or nitro-glycerine, or any other substance of that nature; and powder magazine is the place wherein powder is stored.

z. The "informer," is the person who gives the particulars whereon a prosecution for the contravention of this law is brought, and who, not being incompetent to give testimony, deposes to the principal facts on the trial.

aa. The "informant" is the person who institutes such prosecutions, in the form *qui tam*, for such contravention.

bb. The words "billiard tables," besides their proper meaning, mean also boards used for the games of pigeon-hole, mississippi, or bagatelle.

cc (Added by 43-44 Vic., c. 11, s. 2.) A bottler is a person who bottles fermented liquors, sells and delivers them either on his own premises or at those of the purchaser, in quantities of at least a dozen bottles at a time.

dd (Added by 43-44 Vic., c. 11, s. 2.) A club is an association in which the profits arising from the sale of intoxicating liquors and use of billiard tables, belong to the members of the club, who are proprietors, *bond fide*, of all the moveable property therein and are proprietors or lessees of the establishment.

GENERAL PROHIBITIONS.

2. (As amended by 45 Vic., c. 9, s. 1.) It is forbidden to all persons, corporations or clubs, under pain of the fines and penalties hereinafter promulgated, to keep within the limits of this Province :

1. Any inn or temperance hotel; 2. Any restaurant, or steamboat bar; 3. Any liquor shops, wholesale or retail; 4. Any railway buffet, or tavern at the gold mines; 5. Or to sell intoxicating liquors; 6. To carry on the trade or business of auctioneer, pawn-broker, pedlar, or ferry-man between the banks of the River St. Lawrence at certain points hereinafter indicated; 7. To keep for gain any billiard table; 8. To keep a powder magazine or to sell powder; 9. To give equestrian representations and exhibitions of wild animals, known and designated as circus and menagerie; 10. (*Added by 43-44 Vic., c. 11, s. 3.*) To carry on the trade of bottler;

Without having previously obtained from the government, in the manner and form, and after payment of the duties and fees hereinafter mentioned, a license, then in full force, for each of said objects.

BY WHOM LICENSES ARE ISSUED AND THEIR DURATION.

3. Each license, for any one of the above-mentioned objects, is granted in the name of the Lieutenant-Governor, and issued by one of the License Inspectors or his deputy, except licenses for taverns at the gold mines, which are granted by one of the officers named by the Lieutenant-Governor in Council, under clause 2 of the Gold Mining Amendment Act of 1868.

4. Each License Inspector delivers the licenses to be used, within the limits of the district assigned to him, with the exception of pedlar's licenses, which may be issued for all judicial districts, by the same officer, and he collects the duties and fees imposed upon those licenses by this law. In the case of a steamboat bar license, this duty devolves on the License Inspector for the district, where the proprietors, master or person in charge of said steamboat or vessel, for which such license is required, resides, and in the event of such steamboat or vessel belonging to a company, on the License Inspector for the district in which the company holds its head office, or principal place of business.

The deputy License Inspector, in the same manner as his chief, delivers the licenses and collects the duties and fees.

5. The Lieutenant-Governor in Council may from time to time, name at his discretion, any person or persons, whom he authorizes to sign and deliver those licenses to the License Inspectors, and may likewise determine on their form as well as the date of their delivery.

6. These licenses are granted for one year, or for a portion of a year only, and expire on the first day of the month of May subsequent to their issue, except ferry licenses, concerning which this law contains special provisions; steamboat bar licenses, which expire when the boats go into winter quarters; and licenses for taverns at the gold mines, which are of monthly duration.

6a. (*Added by 44-45 Vic., c. 4, s. 4.*) The Lieutenant-Governor in Council may, upon the recommendation of the permanent exhibition committee appointed by the Council of Agriculture and the Council of Arts and Manufactures, grant licenses, at reduced rates,

to sell intoxicating liquors, on the grounds set apart for exhibition purposes, to have effect only during the Provincial Exhibition.

6b. (*Added by 43-44 Vic., c. 11, s. 47, as amended by 45 Vic., c. 9, s. 5.*) The officer appointed under any Mining Act in force in this province, in charge of any mining district or division, shall alone have the right to issue licenses for the sale of intoxicating liquors within a radius of seven miles from any mine that is being worked; which licenses shall be subject to such duties as the Lieutenant Governor in Council may determine, not however to be less than fifty dollars for any one license; and the said officer may grant, withhold or cancel such licenses, any municipal by-law or anything in the Quebec License Law of 1878 or in any other Act, to the contrary notwithstanding.

Such licenses shall be held subject to such regulations, as may be adopted by the Lieutenant Governor in Council.

LICENSES FOR INNS.—GENERAL MODE OF OBTAINING THEM.

7. (*As amended by 43-44 Vic., c. 11, s. 4.*) To obtain a license to keep an inn the following formalities shall be observed:

Previous to the obtaining of any of said licenses, for any part of the organized territory of this Province, the applicant shall furnish the License Inspector with a certificate, according to form A, annexed to this law, signed by twenty-five resident municipal electors, or a majority of resident municipal electors, if they number less than fifty, of the parish, township, village, town or ward of the city, within the limits of which is situated the house for which such license is applied for, to the effect that the applicant is personally known to the signers, that he is honest, sober, of good reputation, and that he is qualified to keep a house of public entertainment, and that the house referred to contains the lodging room required by this law, and that there is a need for a house of public entertainment.

8. (*As substituted by 43-44 Vic., c. 11, s. 5, and as amended by 44-45 Vic., c. 4, s. 5.*) This certificate shall be accompanied by an affidavit of the applicant, made in accordance with form B, annexed to the Quebec License Law of 1878, and sworn to before a justice of the peace of the district, or in the cities of Montreal and Quebec, before the judge of the Sessions, the Police Magistrate or the Recorder.

In the cities of Montreal and Quebec no certificate for a license shall be granted, if a majority of the municipal voters, within the municipal polling district of the ward, shall signify their opposition in writing to the granting of such license."

9. If the certificate refers to a house situate within the limits of a city, it, as well as the license, shall contain the designation of the ward and street where it is situated. The license is of no effect outside the limits of such ward and street.

10. In the cities of Montreal and Quebec, the signers of the

certificate shall be municipal electors, having their residences or places of business in the ward, and be duly inscribed on the last list of electors.

11. (*As amended by 43-44 Vic., c. 11, s. 6.*) Such certificates (except those connected with applications for licenses in the city of Montreal and in the city of Quebec) shall also be confirmed by a decision of the council of the municipality within the limits of which the house is situated, drawn in accordance with form C annexed to this law, and such confirmation is certified under the signature of the mayor and city clerk or secretary-treasurer of the council.

12. (*As replaced by 44-45 Vic. c. 4, s. 2.*) The confirmation of a certificate for a tavern can be given only by the municipal council and certified under the signature of the mayor and clerk or secretary-treasurer.

If, on the day fixed for the meeting of the council, there is no quorum, the meeting is postponed from day to day until there is a quorum and until the question is decided.

13. (*As amended by 44-45 Vic. c. 4, s. 1.*) The council to which this certificate is presented shall ascertain, by procuring such information as it may deem fit and proper, if the requisite number of duly qualified electors have signed the same. The authenticity of the signatures attached thereto shall be established under oath before one of the members of the council, and if the result of such double enquiry be, in whole or in part, unfavorable to the applicant, the confirmation applied for shall be refused.

Such certificate shall be refused if it be proved to the satisfaction of the council:

1. That the petitioner is a person of bad character, having already allowed or permitted drunkenness in his tavern, or
2. That he has already been a second time condemned to a fine for having sold liquor without a license, or
3. That his demand for a license is opposed in writing by the absolute majority of the electors, resident in the locality in which it is intended to open a tavern.

SPECIAL MODE FOR THE CITY OF MONTREAL.

14. (*Substituted by 43-44 Vic., c. 11, s. 8.*) *a.* The confirmation of the certificate is granted at the Police Court, in Quebec, by the judge of the Sessions or the Recorder; and at the Police Court, in Montreal, for the city of Montreal, by the Police Magistrate or the Recorder.

b. The clerk of the Peace, in both cities, shall for that purpose act as clerk to the aforesaid officers.

c. Any person who intends to apply for the confirmation of a certificate, must apply verbally or in writing to the Clerk of the Peace, and shall pay to him the sum of fifty cents for entry of the same and all proceedings connected therewith.

d. The Clerk of the Peace shall prepare a list and post it up in a conspicuous place in his office open to the public; and such list shall give the date of the inscription of each application, the name, occupation and residence of the applicant, the situation of the house to which the license applies, and the day on which it will be taken into consideration.

e. No application can be taken into consideration by the competent authority unless it has been inscribed on the said list for at least eight days.

f. Any person may oppose the application, and if notice of the opposition has been given to the clerk of the Peace, the latter shall, three days before the taking into consideration of such application, give notice thereof to the applicant and to the opposant if there be one.

g. Any person, producing before the competent authority, when the application is being taken into consideration, or who has previously produced before the Clerk of the Peace, verbally or in writing, the objections by him made to the granting of the confirmation of a certificate, has the right to be heard on the grounds and reasons of such objections as may then be raised.

h. The said competent authorities may hear him as well as the applicant, forthwith, or may fix a future day for such hearing.

Upon such hearing, as well as on every application which is not objected to, it is the duty of the said authorities, collectively or separately, whenever they may judge it useful or necessary, to make all the enquiries they deem proper to satisfy themselves of the qualification of the applicant and of the truth of the facts put in issue.

i. The said authorities may, to that end, take into consideration all documents, hear or cause to be heard by some fit person, all persons whom, from the personal knowledge of such authorities, or on the indication of the objecting parties, or of others, they believe to be able to give information, and generally to resort to every other source of information.

j. When the said authorities wish to obtain information from officers or members of the Quebec or Montreal police force, respectively, they may, through the Chief of Police, order those functionaries to come before them and to make all such inquiries as may be deemed necessary.

k. When opposition is made to any application for the confirmation of a certificate, such confirmation can only be made in Montreal by both the Police Magistrate and the Recorder, and in Quebec by the Judge of Sessions and the Recorder.

l. The granting of the confirmation of the certificate or the refusal thereof for any cause whatever, is discretionary with the said authorities, except in the case provided for in section 5, of this act, and their decision is final.

m. No license shall be granted by the License Inspector, un-

less there be deposited in his hands a certificate, signed by the said authorities, who shall deliver to applicant such certificate attesting the granting of such confirmation.

n. The Clerk of the Peace shall, from time to time, prepare a list of the certificates which the said authorities have confirmed and which are then in force, and keep it posted up in the Police Court or in his office.

15, 16. (*Repealed by 43-44 Vic., c. 11, s. 8.*)

17. (*Repealed by 43-44 Vic., c. 11, s. 8.*) The Commissioners appointed and those hereafter to be appointed shall take an oath of office before a judge of the Superior Court, a prothonotary, a clerk of the Circuit Court or a Commissioner appointed to take affidavits to be used in the Superior Court, and an entry of the taking of such oath shall be made in the register aforesaid.

The neglect to take such oath has not, however, the effect of rendering invalid the acts of the board or of the Commissioners.

18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35. (*Repealed by 43-44 Vic., c. 11, s. 8*)

OTHER PROVISIONS APPLICABLE TO ALL LICENSES.

36. On each confirmation of a certificate, for the purpose of obtaining a license for the cities of Quebec and Montreal, the sum of eight dollars is paid to the corporation of each of those cities; and to other corporations for the same object, within the limits of their jurisdiction, a sum not exceeding twenty dollars may be demanded and received.

37. The preceding provision does not deprive cities and incorporated towns of the rights which they may have by their charters or by-laws.

38. Before the granting of any of these licenses, the applicant shall furnish personal security of two hundred dollars, and two solvent sureties, who bind themselves, each in the sum of two hundred dollars, in favor of the Treasurer of the Province, to pay all fines and penalties, to which the applicant may be condemned for any contravention of this law, or of any other enactments, by-laws or legal provisions in force, concerning houses of public entertainment; which sureties shall be themselves responsible for the faithful execution, on the part of the applicant, of all requirements, and of his observance of all regulations to that effect, established by competent authority.

39. (*As amended by 43-44 Vic., c. 11, s. 9.*) The bond is drawn according to the form indicated in schedule G, annexed to this law. It must be executed in the presence of the License Inspector for the district in which the license was applied for or in the presence of one or more of the members of the municipal council, or justices of the peace who confirmed the certificate and the sureties must be approved by them.

The securities and certificates, required by this law, are deposited in the office of the License Inspector, competent to act, who shall not issue the license, until it is established to his satisfaction, that the sums mentioned in article 63 have been paid.

40. (*As amended by 43-44 Vic., c. 11, s. 10.*) If the licensee leaves his house or dies before the license expires, he or his representatives as the case may be, may transfer it to another,—and the transferee thereof, may exercise all the rights which accrued thereunder to the original licensee, in the house therein described, or (if such house be situated within organized territory of the Province) in any other building, situated within the limits of the municipality, which the municipal council, the judge of the Sessions, the Police Magistrate or the Recorder, as the case may be, approve of, and which is set forth in the certificate referred to in the subsequent article.

41. This transfer only has its effect, if the transferee thereof, in case that the house in question be situated in the organized territory, delivers the certificate to the License Inspector, and gives the security which the licensee was himself obliged to give, and in the cities of Montreal and Quebec pays the excess of duty, which may be exigible in consequence of the difference of the rent or annual value, between the house occupied by the original licensee, and the one occupied by the transferee. This transfer shall be written on the back of such license by the License Inspector, and the transferee shall comply with all the formalities which were incumbent on the original applicant.

This transfer shall be so made within three months from the death of the licensee or from his abandonment of his house, failing which, the license is of no avail.

42. Any municipal councillor, being at the same time a brewer, distiller, or dealer in intoxicating liquors, or proprietor of a house of public entertainment, shall not sign the certificate mentioned in article 7 of the present law, under a penalty of twenty dollars for each contravention.

43. No person shall knowingly sign such certificate, unless duly qualified to do so, under a penalty of twenty dollars for each contravention.

44. (*As amended by 43-44 Vic., c. 11, s. 11.*) To obtain a license for an inn, in a non-organized territory, it is necessary only to give previously, in the presence of the License Inspector, the security required by the articles 38 and 39.

The applications for such licenses must however be first submitted to the Treasurer of the Province and are subject to his approval.

45. (*As amended by 43-44 Vic., c. 11, s. 12.*) None of the licenses hereinbefore mentioned shall be granted to a grocer, or person keeping a shop or store for the sale of groceries, provisions sweetmeats or fruits, in any city.

RESTAURANT LICENSES.

46. (*As replaced by 43-44 Vic., c. 11, s. 13.*) The conditions and formalities imposed by the Quebec License Law of 1878, as amended by the present act, relative to the certificates required to obtain a license for an inn, apply *mutatis mutandis*, to restaurant licenses, including the provisions established by this act, for the cities of Quebec and Montreal.

STEAMBOAT BAR AND TEMPERANCE HOTEL LICENSES.

47. Steamboat bar and temperance hotel licenses are granted simply, upon payment to the proper License Inspector, of the required duties and fees.

LIQUOR SHOP LICENSES.

48. (*As replaced by 43-44 Vic., c. 11, s. 14.*) The conditions and formalities imposed by the Quebec License Law of 1878, as amended by the present act, relative to the certificates required to obtain a license for an inn, are in like manner applicable, *mutatis mutandis*, for obtaining a license for the sale, by retail, of intoxicating liquors in shops, including the provisions enacted by the present act, for the cities of Quebec and Montreal, except that instead of the signature of twenty-five municipal electors, or the majority of such electors, when they are less than fifty in number, the signatures of three upon the certificate are sufficient.

Wholesale liquor shop licenses are granted simply upon payment to the proper License Inspector of the required duties and fees.

No certificate is required to obtain a license for a retail liquor shop in an unorganized territory, but the application for such license is subject to the approval of the Treasurer of the Province.

The provisions of the said act as amended by the present act, which apply to wholesale liquor stores, shall apply, *mutatis mutandis*, to bottlers, in so far as relates to the obtaining of licenses (except the amount to be paid therefor) and the penalties for contravening the same.

LICENSES OF RAILWAY BUFFETS AND OF TAVERNS AT THE GOLD MINES.

49. Upon a petition presented to the Lieutenant-Governor in Council by any railway company, the License Inspector, to whom it appertains, may be authorized to deliver to the person indicated, a license to sell intoxicating liquors at the railway station therein mentioned, to travellers upon such railway, but to none others.

With the exception of the provisions contained in articles from 7 to 44, and also the provisions hereinafter mentioned, relative to

the accommodation which must be provided for travellers, by the master of an inn, to the prohibition to sell intoxicating liquors, to the keeping the bar closed during certain days and certain hours, also to the obligation to receive and accommodate travellers; the other provisions of this law, shall apply, *mutatis mutandis*, to licenses of railway buffets in so far as they are not incompatible with such licenses.

One person only shall be licensed for each station.

50. Upon demand made to that effect to the officer named by the lieutenant-Governor, under clause 2 of the act of 1868 to amend the Gold Mining Act, for the purposes and objects mentioned in said clause, and upon payment to him of the sum of five dollars, he may grant to such applicant a license, authorising such applicant to sell intoxicating liquors, within a radius of three leagues from the place where gold mining is being prosecuted, and which is under the jurisdiction of such officer; provided that no such license shall be granted to any person who has not a license to sell intoxicating liquors, under the foregoing articles.

GENERAL RESTRICTION.

51. (*As amended by 43-44 Vic., c. 11, s. 15.*) Whenever a municipal by-law shall have been passed and confirmed as by law required, prohibiting the sale of intoxicating liquors within the limits of its jurisdiction, and a copy of such by-law shall have been transmitted to the License Inspector entitled to the same, such License Inspector is forbidden to issue any of the licenses hereinbefore mentioned, for the sale of such liquors, excepting steamboat bar licenses and licenses of railway buffets, such licenses not being affected by the present restriction.

Notwithstanding the quashing, by judgment of a court of justice, of such a by-law, the License Inspector shall not grant any of such licenses, within two months from the rendering of such judgment, unless such judgment is final.

a. In municipalities in which there exists a by-law prohibiting the sale of intoxicating liquors, or where there is no person licensed to retail spirituous liquors, the sale of such liquors is permitted by the person licensed for that purpose, as provided in paragraph *d* of this section, for medicinal purposes only, or for use in divine worship, on the certificate of a physician or of a clergyman residing in the municipality, and not otherwise.

b. Such certificate can be given by a resident physician, only to a patient under his immediate care or by a clergyman only to a person whose spiritual adviser he is, *bona fide*, under penalty of a fine of thirty dollars for each contravention of this provision.

c. In any case, not more than one imperial pint shall at any one time be sold in virtue of such certificate, and no liquor so sold shall be allowed to be drunk on the premises, under a penalty of forty dollars, for each such contravention.

d. The sale of intoxicating liquor in the case mentioned in paragraph *a* of this section is confined to one person in each municipality; such person to be appointed for that purpose by a resolution of the municipal council, a certified copy of which must be deposited with the License Inspector of the district, who, on receipt thereof, and upon receipt of the license duties as hereinafter provided, shall issue to the person named in such resolution a "license to sell for medicinal purposes, or for use in divine worship only."

e. The person so licensed is bound to make a report, sworn to before a Justice of the Peace on the first of every month, to the License Inspector, showing the names of the persons to whom he has sold liquor during the previous month, the quantity sold in each case, and upon whose certificate the sale was made, which certificates shall accompany the report.

The violation of or failure to comply with any of the provisions of this paragraph shall subject the party so contravening them to a penalty of twenty dollars, for each contravention.

AUCTIONEERS' LICENSES—MODE OF OBTAINING THEM.

52. Previous to the issue of any auctioneer's license, every individual desirous of obtaining one, must become personally bound towards the treasurer of the Province, with two sufficient sureties taken before the License Inspector, or before some person by him thereto authorized, in an amount of which the maximum is two thousand dollars and the minimum five hundred dollars, for each, at the discretion of such Inspector, to guarantee the payment of all moneys for duties, which the applicant for license shall or ought to receive, and for the faithful execution of the obligations imposed upon him by this law. Such bond of security shall be in duplicate, whereof one duplicate shall be transmitted to the treasurer, and the other whereof shall be retained in the archives of the revenue office. Each one shall justify on oath his sufficiency, before the officer receiving such bond.

PAWNBROKERS' LICENSES.

53. The issue of a pawnbroker's license by a License Inspector requires no other formality than the payment of the duty; and persons carrying on the business of pawnbroking in copartnership, in one and the same house, shop or place of business, require but one license.

PEDLARS' LICENSES—FOR WHAT OBJECTS THEY ARE OBTAINED.

54. Every pedlar is obliged to take out a license from the proper License Inspector, without the observance of any other formality than the payment of the duty; but the necessity of obtaining such license has not the effect of preventing a licensed

pedlar from employing a servant to assist him in carrying about his bales of goods, without being obliged to take out a second license for such servant.

55. No enactment of this law obliges a pedlar to take out a license, nor does it apply to persons employed by a temperance society, nor a benevolent or religious society in this province, for the purpose of peddling and selling temperance tracts and other moral and religious publications under the direction of such society.

No person is obliged to take out a license to peddle and sell :

1. Acts of the Legislature ;
2. Prayer books and catechisms ;
3. Proclamations, gazettes, almanacs or other documents printed and published by authority ;
4. Fish, fruit and victuals ;
5. Goods, wares and manufactures, when they are peddled and sold by the actual maker or worker, he being a British subject and a resident of this Province, or by his children, apprentices, agents or servants, excepting always drugs, medicines and patent remedies.

Nor does this act compel the following persons to take a pedlar's license :

6. Tinkers, coopers, glaziers, harness repairers, or other persons carrying on the trade of repairing kettles, casks, household furniture and utensils, to go along the highway and carry on their business ;

7. Nor hucksters, nor persons having stalls or stands on markets, in the cities or towns, for the sale of fish, fruit or victuals, or goods, wares and merchandise, in such stalls or stands, on their complying with the police regulations of the locality.

FERRY LICENSES—BY WHOM THEY MUST BE PROCURED.

56. No license is required to carry on the vocation of ferryman between the river banks of the St. Lawrence, except between the city of Montreal and the town of Longueuil, between the said city and Laprairie, and between Lachine and Caughnawaga, at the places and limits indicated in the license by the License Inspector.

57. No provision of this law applies to the proprietors or masters of any vessel, plying between two ports of this Province, or regularly entered, or cleared by the officers of Her Majesty's Customs at any such ports, or, in any way, affects any privilege granted by the Legislature of the late Province of Lower Canada, of the late Province of Canada, or of this Province, to the proprietors of any bridge, or to any railway company, or other road company.

58. No license for a ferry can be granted for a period exceeding twelve months, unless it be by public competition, and to

persons who give the security required by the Lieutenant Governor in Council, after notice inserted at least four times, in the course of four weeks, in the *Quebec Official Gazette*, and in one or more newspapers published in the district in which such ferry is situate, and if there be no newspaper published in the district, then in the nearest adjoining district in which a newspaper is published; and no ferry is leased and no license is granted in that respect for a period exceeding ten years.

BILLIARD TABLE LICENSES—MODE OF OBTAINING THEM.

59. To obtain a license to keep a billiard table for gain, the applicant must furnish personal security with two sufficient sureties, who, as well as the applicant, bind themselves jointly and severally towards the Treasurer of this Province in the sum of two hundred dollars each as security that the licensee will not knowingly allow, during the term of his license, any apprentice, school-boy or servant to play on any of the billiard tables kept by him, or any person whomsoever playing for money.

The surety bond must be taken in duplicate, one duplicate to be transmitted to the Treasurer and the other kept in the office of the License Inspector.

LICENSES FOR POWDER MAGAZINES.

60. Every person keeping a magazine for the storage of powder, or who sells and holds for sale any quantity of powder, must obtain from the License Inspector a license to that effect.

61. No license can be granted for keeping a powder magazine, within a radius of five miles of the cities of Montreal and Quebec, nor unless the building be erected according to the following rules:—

1. Every magazine shall be built of stone at least two feet in thickness, covered with a fire proof roof made of metal, and adhering to the building by its own weight only;

2. It shall be enclosed at a distance of at least ten feet clear by a stone or brick wall at least ten feet high, with a stone coping, having a single opening, of which the door shall be covered with brass, copper or zinc, and shall be so placed as not to open on any public highway, or on the side on which is the door of the magazine;

3. In the construction of the magazine, or in the surrounding wall, only stone, brick, copper, brass, wood, glass, tin, slate, zinc or leather can be used;

4. It must have but one entrance, to which two doors shall be placed with copper fixing—one inside and one outside the wall; both made of brass, copper, or zinc, or covered with the same material;

5. The floors shall be tongued and grooved close-jointed, and

each part thereof on which any person might walk, or place his foot, shall be covered with leather ;

6. It shall be provided with two lightning-rods, to be approved of by the License Inspector ;

7. Any powder magazine may, with the consent of the Lieutenant-Governor in Council be constructed in a different manner.

CIRCUSES.

62. Any person opening a circus or exhibiting a menagerie, shall first obtain a license therefor from the License Inspector.

This license shall specify the number of days for which the duties have been paid, and ceases with the last of these days.

One license suffices for the opening and exhibition, at the same place, of a circus and of a menagerie, if they form the same troupe.

DUTIES PAYABLE ON EACH LICENSE.

63. (*As replaced by 43-44 Vic., c. 11, s. 17.*) In addition to a fee of one dollar on the granting of each license, the duties comprised in the following tariff shall be payable by the applicant therefor to the License Inspector, preliminary to the granting of the different licenses mentioned in the Quebec License Law of 1878, as amended by the present act.

TARIFF OF DUTIES PAYABLE FOR LICENSES UNDER THE PRESENT LAW.

On licenses for the sale of intoxicating liquors.

1. On each license to keep an inn, and for the sale therein of intoxicating liquors :

a. In the city of Montreal, two hundred dollars, if the annual value or rent of the premises, for which the license is required, is less than four hundred dollars ; three hundred dollars, if the annual value or rent is four hundred dollars and less than eight hundred dollars ; and four hundred dollars, if the annual value or rent is eight hundred dollars or more ;

b. In the city of Quebec, one hundred and twenty-five dollars, if the annual value or rent is less than two hundred dollars ; one hundred and fifty dollars, if the annual value or rent is two hundred dollars, and up to four hundred dollars ; and two hundred and fifty dollars, if the annual value or rent is four hundred dollars and less than eight hundred dollars ; and three hundred dollars if the annual value or rent is eight hundred dollars or more ;

c. In every other city, one hundred dollars ;

d. In every incorporated town, eighty-five dollars ;

e. In every village regulated under the authority of the municipal code, seventy dollars ;

- f.* In every section of organized territory, outside of a city, town or village, fifty-five dollars;
- g.* In every territory not organized, thirty-five dollars.
2. On each license for the sale of intoxicating liquors in a club :
 - a.* In the city of Montreal, eighty dollars ;
 - b.* In the city of Quebec, fifty dollars ;
 - c.* In every other part of the Province, forty dollars ;
3. On each license for the sale of intoxicating liquors in a restaurant or railway buffet :
 - a.* In the city of Montreal, two hundred dollars, if the annual value or rent of the premises, for which the license is required, is less than four hundred dollars ; three hundred dollars, if the annual value or rent is four hundred dollars and less than eight hundred dollars ; and four hundred dollars, if the annual value or rent is eight hundred dollars or more ;
 - b.* In the city of Quebec, one hundred and fifty dollars, if the annual value or rent is less than four hundred dollars ; and two hundred and fifty dollars, if the annual value or rent is four hundred dollars or more ;
 - c.* In every other city, ninety dollars ,
 - d.* In every incorporated town, seventy dollars ;
 - e.* In every other part of organized territory, fifty-five dollars.
4. On each license for a steamboat bar for the sale therein of intoxicating liquors, one hundred and fifty dollars ;
5. On each license for the sale of intoxicating liquors at the mines or in any mining district or division such sum as the Lieutenant-Governor in council may determine, provided that in no case shall such sum be less than fifty dollars.
6. On each retail liquor shop license :
 - a.* In the cities of Montreal and Quebec, fifty per centum of the annual value or rent of the premises, for which the license is required ; provided that in no case shall the duties on such license be less than seventy dollars, or more than one hundred and fifty dollars ;
 - b.* In every other city, seventy dollars ;
 - c.* In every incorporated town, sixty dollars ;
 - d.* In every other organized section of territory, fifty dollars ;
 - e.* In every unorganized territory, twenty-five dollars.
7. On each wholesale liquor shop license :
 - a.* In the cities of Montreal and Quebec, fifty per centum of the annual value or rent of the premises, for which the license is required, provided that in no case shall the duties on such license be less than one hundred dollars, or more than two hundred dollars ;
 - b.* In every other city, eighty dollars ;
 - c.* In every incorporated town, seventy dollars ;
 - d.* In every other part of organized territory, sixty dollars.

8. On each license for the sale of fermented liquors, bottled by the holder of such license :

- a. In the cities of Montreal and Quebec, fifty dollars ;
- b. In any other part of the Province, forty dollars.

9. On each license to sell, for medecinal purposes or for use in divine worship, in municipalities in which a prohibitory by-law is in force :

- a. In every city, twenty dollars ;
- b. In every incorporated town, ten dollars ;
- c. In every village, two dollars ;
- d. In every section of organized territory, outside of a city, town, or village, one dollar.

Licenses for Temperance Hotels.

10. On each license to keep a temperance hotel for the reception of travellers and other persons, and for the sale therein of temperance liquors only, five dollars.

Auctioneers' Licenses.

11. On each auctioneer's license :

- a. In the cities of Quebec and Montreal, eighty-five dollars.
- b. In all other cities and towns, sixty dollars.
- c. In every other part of the Province, twenty-five dollars.

12. On all separate licenses, taken out by an auctioneer, for the employment of an assistant, agent, servant or partner, as crier :

- a. In the cities of Quebec and Montreal, thirty-five dollars ;
- b. In all other cities and towns, twenty-five dollars.
- c. In every other part of the Province, fifteen dollars.

Pawnbrokers' Licenses.

13. On each pawnbroker's license, one hundred and twenty-five dollars.

Pedlars' Licenses.

14. On each license for a pedlar, for one judicial district, twenty dollars, and for each additional judicial district, ten dollars.

Ferry Licenses.

15. For each license for a ferry, such sum as may be fixed by the Lieutenant-Governor in Council, under articles 58 and 163 of the Quebec License Law of 1878 (1).

Billiard Table Licenses.

16. For billiard table licenses, other than for those in a club :

- a. In incorporated cities and towns :

1. Where not more than two tables are kept by the same person, and in the same building, forty dollars for each table ;

- (1) See Ss. 58 and 163 of present law.

PROVISION AS TO DETERMINATION OF RATE OF RENT.

2. When there are more than two, for the third and fourth table, twenty dollars each ;
3. For the fifth and sixth tables, fifteen dollars each ;
4. And for each table beyond six, ten dollars ;
- b. And in every other section of organized territory, twenty dollars for each table.
17. On each license for a Billiard table in a club :
 - a. In the city of Montreal, twenty dollars ;
 - b. In the city of Quebec, fifteen dollars ;
 - c. In every other part of the province ten dollars ;
18. For each bagatelle, pigeonhole, or mississippi board, in every section of organized territory, fifteen dollars.

Powder Magazine Licenses.

19. For each license to keep or use a powder magazine, fifty dollars.
 20. For each license for the sale of powder or to keep it on sale :
 - a. In the cities of Quebec and Montreal :
 1. By wholesale and retail, twenty dollars ;
 2. By retail only, eight dollars ;
 - b. In every other city :
 1. By wholesale and retail, ten dollars ;
 2. By retail only, five dollars ;
 - c. In every incorporated town :
 1. By wholesale and retail, five dollars ;
 2. By retail only, two dollars and fifty cents ;
 - d. In any other organized part of the Province :
 1. By wholesale and retail, two dollars and fifty cents ;
 2. By retail only, one dollar.
- A quantity of twenty-five pounds or more, or a dozen canisters, of one pound each, sold at any one time, is deemed to be sold wholesale, and a less quantity than that hereinabove mentioned, is deemed to be a sale by retail.

Circus or Menagerie Licenses.

21. For each license to open and exhibit a circus or equestrian representation, menagerie, or caravan of wild animals :
 - a. In the cities of Quebec and Montreal, and within a radius of three miles of each of these cities, two hundred dollars, for each day of the representation or exhibition of the same ; and for every side show, twenty dollars for each day ;
 - b. In other parts of the Province, one hundred dollars for each day ; and for every side show, ten dollars for each day.

64. The rent or annual value, fixing the rate of licenses in certain cases, is taken from the valuation roll for municipal purposes then in force.

65. (*As replaced by 43-44 Vic., c. 11, s. 18.*) To every application for license, the duty whereof is regulated by the amount of the rent or annual value, there must be annexed a certificate of the valuation contained in the valuation roll aforesaid of the house and dependencies or premises, for which such license is sought, which valuation shall include not only the room or rooms which shall be used for the purposes required for such license, but also all other rooms in the same house and dependencies which are occupied by the license or intended so to be for any purpose whatever, delivered by the City-Clerk or Secretary-Treasurer, who is bound to deliver such certificate, whenever thereto required, under a penalty of fifty dollars, for each contravention.

POWERS OF THE LIEUTENANT-GOVERNOR AS TO THE REDUCTION OF THE DUTIES ON LICENSES, AND OTHER PROVISIONS.

66. The Lieutenant-Governor in Council may, when and so often as he deems it expedient, by regulation, reduce the rate of duty on licenses, as mentioned in article 63 of this law, provided that this rate be not below the rate imposed by the fifth section of the Imperial Act, George III, chapter eighty-eight.

67. The duties imposed by this law on licenses of inns, restaurants, steamboat bars, railway buffets, or liquor shops, include those imposed by said Imperial Act; but should the same be hereafter repealed such repeal shall not have the effect of reducing the amount of such duties.

68. No other licenses than those issued under this law, are necessary to be obtained, by any person, for the same objects, from any corporation or municipal bodies.

69. (*As amended by 43-44 Vic., c. 11, s. 20.*) The obligations to take out a license for the sale of intoxicating liquors, and for billiard tables, apply to all places where such liquors are sold and where billiard tables are kept, notwithstanding that such places and tables are used by a club or association of any kind.

DUTIES OF THE LICENSE INSPECTOR AS REGARDS THE ISSUING OF LICENSES.

70. Under the restrictions and exceptions hereinabove imposed, it is the duty of each License Inspector on proof being furnished to him of the fulfilment of all the formalities, on payment being made to him, of the requisite duties for issue of the licenses hereinabove mentioned, and on application being made to him, to issue, within the limits of his jurisdiction any of the above licenses.

The same rule applies to the officer named under the Treasury Department Act, relative to the issuing of tavern licenses at the gold mines.

PENALTIES FOR INFRACTIONS OF THIS LAW BY ILLICIT SALE OF INTOXICATING LIQUORS AND CERTAIN FRAUDULENT PRACTICES.

71. (*As amended by 43-44 Vic., c. 11, s. 21.*) Any one who keeps, without a license, to that effect, still in force, as hereinabove prescribed, an inn, restaurant, steamboat bar, railway buffet, or liquor shop for the sale, by wholesale or retail, of intoxicating liquors, or sells, in any quantity whatsoever, intoxicating liquors, in any part whatsoever of this Province, municipally organized, is liable for each contravention, to a fine of ninety-five dollars if such contravention takes place in the city of Montreal, and seventy-five dollars if it has been committed in any other part of the organized territory; and if the contravention takes place in non-organized territory, the penalty is thirty-five dollars.

Any one who keeps, without a license to that effect still in force as by-law prescribed, a temperance hotel, is liable for each contravention to a fine of twenty dollars.

72. Any one who without a license to keep a tavern at the gold mines, sells intoxicating liquors, within a radius of three leagues distant from any place where gold mining is being prosecuted, incurs a penalty of one hundred dollars for each contravention.

73. (*As replaced by 43-44 Vic., c. 11, s. 22.*) Any one holding a retail liquor shop license, and who sells in such shop, or in any place whatsoever, within the limits of this Province, any intoxicating liquors in quantity less than one imperial pint, at one and the same time, or holding only a wholesale liquor shop license, sells in such shop or within the above mentioned limits, any of said liquors in quantity less than two imperial gallons, or one dozen bottles containing not less than one imperial pint each, at one and the same time, becomes liable to a fine of seventy-five dollars for such contravention.

The same fine is applicable to the case of a person holding a license, who sells in any quantity whatsoever, intoxicating liquors, outside of the place and its dependencies, for which the license has been obtained.

74. (*As amended by 43-44 Vic., c. 11, s. 23.*) Every licensee for the sale of intoxicating liquors in shops, but not for keeping a house of public entertainment, who allows intoxicating liquors, sold therein to be drunk in said shop, or its dependencies, either by the purchaser, or by a person not residing with or in the employ of said licensee, or who sells such liquors, in any other place than that designated in the license, or who sells them to any minor under the age of sixteen years, is liable to the same fine of seventy-five dollars.

75. The purchaser of intoxicating liquors, in a licensed shop, is forbidden to drink, or cause any one to drink, or to allow the

said liquors to be drunk, in the shop where the same have been purchased, under a fine of ten dollars for each contravention.

76. Every licensee to keep a temperance hotel, who allows intoxicating liquors to be drunk in his house or dependencies, incurs a fine of twenty dollars for each contravention.

77. (*As amended by 43-44 Vic., c. 11, s. 24.*) Every proprietor or master of a steamboat or vessel, holding a license under this law, who allows his steamboat bar to remain open, or who sells or allows intoxicating liquors to be sold on board, during the time that such steamboat or vessel is staying in a port, or at a wharf, or at any place of disembarkation, is liable to a fine of one hundred dollars.

78. (*As amended by 43-44 Vic., c. 11, s. 25.*) Any person, not being the holder of any one of the licenses hereinabove mentioned, who exhibits, causes to be exhibited, or allows the exhibition, in or on any part of his house or its dependencies, or of his vehicles, of any sign, inscription, painting, or any sign whatsoever, of a nature to induce the public or travellers to believe that the sale of intoxicating liquors is authorized therein in any quantity, and that he is the holder of a license, to that effect, is liable to a fine of twenty dollars for each contravention.

The same penalty is incurred, by any licensee who, by any of the means mentioned in this article, seeks to induce the public, or travellers to believe that he holds a different license, than that which has been granted to him.

79. Any one not being a licensee as hereinabove mentioned, who keeps, or allows to be kept in his house or dependencies, in storage or otherwise, for the purpose of making a sale thereof, any intoxicating liquors, shall be liable to a penal prosecution, in which he may be condemned to pay a fine of twenty dollars for contraventions of this article, committed up to the time of the institution of such prosecution if it be the first so brought.

In case of repetition of the offence, he may again be prosecuted, and condemned to pay a like fine of twenty dollars, for all the contraventions committed, from the time of the first prosecution, to the institution of the second, and so on for all subsequent contraventions committed, in the interval between one prosecution and the other.

80. (*As replaced by 43-44 Vic., c. 11, s. 26.*) The judgment inflicting such fine, shall order the confiscation of the said liquors and vessels.

The License Inspector shall have the liquor and vessels so confiscated, sold by private sale or by auction, according to the instructions which are given him by the Treasurer, and the License Inspector shall retain one-third of the price realized, and remit the remaining two-thirds to the Treasurer.

80a. (*Added by 44-45 Vic., c. 4, s. 3.*) The license of a tavern-keeper, who permits any one to become intoxicated in his tavern, or who allows any disorder whatever to occur, may, in addition to the ordinary penalties to which the said tavern-keeper is subject, be revoked by the court before which the complaint is heard, upon satisfactory proof to that effect.

OBLIGATIONS IMPOSED UPON LICENSEES HEREINABOVE MENTIONED,
AND PENALTIES FOR CONTRAVENTIONS.

81. Each inn and temperance hotel, situated in a village, or in the country parts, shall contain at least three bedrooms, having each a good bed, for the use of travellers, apart from the lodging apartments of the family.

82. The master of such inn, or temperance hotel shall keep in an out-house, adjacent to the main building, stalls for at least four horses, and shall always be provided with edibles and provisions for travellers, and hay and grain for their horses.

83. Every inn or temperance hotel, in a town or city, shall contain a kitchen of sufficient dimensions, all the utensils necessary to prepare meals for at least ten persons, a dining room with a suitable table whereon to lay the cloth and at least two bedrooms.

84. (*As amended by 43-44 Vic., c. 11, s. 27.*) Every restaurant must be suitably furnished, to the satisfaction of the authorities confirming the certificate.

85. The master of every such inn, temperance hotel or restaurant shall, at all times, on demand of the License Inspector or his deputy exhibit his license, which he shall keep constantly exposed to the view of the public, in the bar of his establishment, or in some other place approved of by the License Inspector.

86. He shall cause to be printed in legible characters, at least three inches high and broad in proportion, immediately above the outside of the door of his house, his name in full with the words, where it is an inn or restaurant, "Licensed to retail spirituous liquors," or "Licensed to sell intoxicating liquors," and where it is a temperance hotel "Licensed to keep a temperance hotel," under the penalties mentioned in article 94.

87. (*As amended by 43-44 Vic., c. 11, s. 28.*) If such establishment is situated in the country parts, the master thereof must moreover expose, and keep exposed, during the whole period of his license, a similar inscription (or sign), composed of letters not less than four inches high, and wide in proportion, on his house or on the top of a post, or several posts, of sufficient height close to his house, to indicate it to travellers, under the penalties mentioned in article 94.

Every bottler shall cause to be painted in legible letters of at least two inches in height and a proportionate width, on both sides of his vehicle, his name at full length, adding thereto the word "licensed," under a penalty of twenty dollars for each contravention.

88. Every licensed inn, temperance hotel, restaurant, tavern at the gold mines, steamboat bar and railway buffet shall be kept peaceably, and order shall be maintained therein.

89. No gambling is allowed therein, under the penalty mentioned in article 94 against the master of each such inn, temperance hotel, restaurant, tavern at the gold mines, steamboat bar and railway buffet, for each contravention.

90. Not more than one drinking bar shall be kept therein, under the penalty mentioned in article 94.

91. Intoxicating liquors shall not be sold therein, at any time, to drunken persons, nor to minors under sixteen years of age, nor, after eight o'clock at night, to soldiers, sailors, apprentices or servants, known as such by the master of the house.

92. (*As replaced by 45 Vic., c. 9, s. 2.*) Intoxicating liquors shall not be sold in any inn or restaurant at any place in the province, or in any tavern at the gold mines on each and every day of the week from midnight until five o'clock in the morning, nor during the whole of each and every Sunday in the year, unless on a special demand for medicinal purposes, signed by a medical practitioner, or by a justice of the peace, and produced by the purchaser.

The liquors so sold on special demand, shall not be drunk on the premises.

During the times when the sale of liquors is prohibited, all the bars shall be kept closed.

93. Whilst the license is in force, with the exception of licenses for liquor shops, no trade in groceries, provisions, sweatmeats or fruits, can be carried on within the limits of a city, either directly or indirectly, for the benefit of the licensee.

No licensee for an inn or temperance hotel can refuse to receive and harbor travellers without just cause.

No licensee for keeping a restaurant can receive or harbor travellers.

94. (*As replaced by 45 Vic., c. 9, s. 3.*) Every contravention of the articles, from article 81 to 91 inclusively, or of article 93 is punishable by a fine of not less than ten dollars nor more than fifty dollars, in the discretion of the tribunal.

Every contravention of art. 92 is punishable by a fine of not less than thirty dollars nor more than seventy-five dollars in the discretion of the tribunal, and in default of payment of such fine, by imprisonment for a period not exceeding three months in the common gaol of the district in which the said infringement has occurred.

94a. (*Added by 45 Vic., c. 9, s. 4.*) No offender against the provisions of section 92 of the Quebec license law of 1878, as amended by this act, or of the act 42-43 Vic., c. 4, shall be liable to more than one condemnation for one and the same offence.

OTHER PENAL PROVISIONS.

95. The husband, wife, father, mother, brother, sister, curator, tutor, or employer, of any person who has the habit of drinking intoxicating liquor to excess ;

The manager or person in charge of any asylum or hospital, or charitable institution, in which such person resides or is kept :

The curator of any interdicted person ;

Or the father, mother, brother or sister, of the husband or wife of such person ;

Or the tutor or guardian of any child of such person ;

May give notice in writing, signed by him or her, to any person licensed to sell intoxicating liquors, or who habitually sells such liquors, not to sell or deliver the same to the person having such habit.

96. If in the course of one year from the date of such notification, the person thus notified, either personally, or by his clerk, servant or agent, sells or delivers such liquors otherwise than on a special demand, for medicinal purposes, signed by a medical practitioner, to the person having such habit, the person who had given the notice may, by an action for personal damages (if the same be instituted, within six months, from the commission of the offence), recover from the defendant, the sum of ten dollars at least, and of five hundred dollars at most accordingly as it shall be adjudged by the court or jury, as damages.

97. Every married woman may, notwithstanding the article 176 of the civil code, institute such an action in her own name, without the authorization of her husband. All damages recovered by her are, in such cases, for her sole use.

98. In the case of death of either of the parties to the suit, the action and the right of action, given by the articles 95, 96 and 97 subsist in favor of or against their legal representatives respectively, provided that the identity of the person, to whom the liquor is sold, be known to the seller at the time of such sale or delivery.

99. The master of an inn, restaurant or any other house, where intoxicating liquors are sold, and every person employed by him in the establishment, are severally liable to an action of damages, towards the representatives of a person, who shall have become intoxicated there, by means of liquors delivered to him, by the said master or employee, and who, by reason of his drunkenness, shall have committed suicide, or died from some accident occasioned by such intoxication.

100. This right of action, which lasts but for three months from the date of death, may be joint and several, or distinct and separate, against each of the individuals so responsible ; and the representatives of the person deceased may recover a sum of not less than one hundred dollars, and not exceeding one thousand dollars, under such action for damages and interests, accordingly as any such sum be adjudged to them, by the court or jury.

101. If a person in a state of intoxication commits an assault, or damages any property, the person who shall have delivered the liquor causing such intoxication, in contravention of this law, or any other law, is subject, as regards the person injured, to the

same civil action of damages, as he who committed the assault or damaged the property.

The responsibility is joint and several.

102. (*As amended by 43-44 Vic., c. 11, s. 30.*) If a licensee to sell intoxicating liquors or to keep a temperance hotel, is condemned for a contravention of this law or is convicted of felony, the tribunal pronouncing the sentence, may revoke the certificate by virtue of which he obtained his license.

103. (*As amended by 43-44 Vic., c. 11, s. 31.*) When the license Inspector has been informed of such revocation, by the tribunal or by the clerk of the court, he shall notify the licensee of such revocation, and thereupon his license becomes null and void.

104. If the licensee, who has received regular notice of such revocation and annulment of the license, continues to keep the house or shop authorized by such license, and to sell intoxicating liquors, he becomes liable to the fines and penalties imposed by this law on persons who keep such houses, and sell such liquors, without a license.

105. Every payment in money, or in objects having a pecuniary value, for intoxicating liquors, furnished in contravention of this law, is held to have been made without consideration and against law.

106. The amount thereof may be recovered from the receiver thereof by the party who made such payment, or by his wife without the authorization of her husband, and by his father or his tutor if he be a minor; and all contracts and obligations whatever, in whole or in part, made and entered into, for or by reason of such furnishing of such liquors, in violation of law, are null; saving the rights of third parties.

107. No action can be maintained, for or by reason of the sale of liquors, furnished in contravention of this law. This article does not affect the provisions of article 1481 of the civil code of Lower Canada.

108. (*As replaced by 43-44 Vic., c. 11, s. 32.*) [Every policeman, constable and other person thereto authorized in writing by a License Inspector, by a justice of the peace, the Judge of the Sessions, the Police Magistrate or the Recorder, may enter any unlicensed place, frequented by the public, where there is reason to suspect that intoxicating liquors are exposed for sale, and to search therefor; and if such are discovered, he shall take and carry away such intoxicating liquors and the vessels containing the same, and shall place them in the care and possession of the License Inspector for the district to await the judgment of the court respecting them.]

OBLIGATIONS IMPOSED UPON AUCTIONEERS, AND PENALTIES FOR
CONTRAVENTIONS BY THEM COMMITTED.

109. With the exception of the immoveable and moveable property of the crown, of real and personal property sold by authority of justice, or through confiscation, of the real and personal property appertaining to any dissolution of community, or to any church, or which are sold at any bazaar held for religious or charitable purposes, or sold for religious purposes, or which are sold in payment of municipal taxes under the municipal code, or any other law regulating municipalities,

With the exception likewise of the real and personal property, grain or cattle sold for non-commercial purposes by the inhabitants of the rural districts, removing from the locality, and the goods of minors sold by forced or voluntary licitation,

All goods and effects and moveable and immoveable property, wares, merchandise and stock in trade, sold by auction and outcry in this Province, and adjudged to the highest and last bidder therefor, shall be sold by a licensed auctioneer.

And such sales by auction are subject to a duty of one per cent on the amount thereof, which duty shall be paid, by the auctioneer, to the License Inspector, out of the proceeds of the sale, at the cost of the seller, unless an express stipulation be made, in the condition of sale, that such duty shall be paid by the buyer, in which case the duty is added to the price.

110. Moveable property, wares, merchandise, stock in trade and active debts comprising insolvent estates sold by auction under the laws on insolvency, remain chargeable with the duty of one per cent hereinbefore imposed, notwithstanding that the same may be sold otherwise than by a licensed auctioneer.

111. (*As amended by 43-44 Vic., c. 11, s. 33.*) Whosoever, not being an auctioneer duly licensed as required by the present law (such license being at the time in force,) sells, by public auction and by outcry, in this Province, any property, immoveable or moveable, effects, merchandise and stock in trade, subject to auction duty, excepting such moveable property, effects, merchandise and insolvent's stock, mentioned in the preceding article, and whosoever causes such sale, whether he be proprietor or not of the property so sold, in violation of the terms of this article, shall incur a penalty for each contravention thereof, at the maximum, in the sum of one hundred dollars and at the minimum, of fifty dollars at the discretion of the tribunal pronouncing the same.

Any person who shall advertise any property for sale by him at auction over his signature, or who shall allow his name to be used in any newspaper, hand-bill, poster or other mode of advertising property for sale, without first having procured a license as an auctioneer shall incur and be liable to a penalty of fifty

dollars for each such offence which may be recovered by the License Inspector of the District in the same manner as provided for other offences against the License Act, one half of said penalty shall be paid into the Provincial Treasury and the remaining half to the License Inspector.

112. Such person, selling without license, shall pay the duties on such sale, in the same manner, as if the sale had been under a license.

In addition to the penalty aforesaid, whosoever without such license makes a sale so prohibited, as aforesaid, and who, within the thirty days following such sale, neglects to pay to the License Inspector, or to his agent, the amount of the duty on such sale, incurs a fine of twenty dollars for each day during such neglect.

113. The amount of such duty, and of such penalty may be recovered by the License Inspector by the same prosecution, and in default of payment of the amount in principal and costs thereof, the contravening person is liable to imprisonment, for such time as shall be pronounced by the tribunal, being not more than three months and not less than one month.

114. Every auctioneer shall under a penalty of twenty dollars keep in a book, preserved for that purpose, a detailed statement, in the form prescribed by the Treasurer, of all sales made by him and give to said Treasurer all information by him required from time to time.

115. The License Inspector, his deputy and every person authorized to that effect, by the Treasurer, shall have, at all times, access to such book, for its examination ; and every auctioneer refusing to allow such examination incurs a penalty of fifty dollars for each contravention of this article.

116. Within the first ten days of each of the months of February, May, August and November of each year, every licensed auctioneer shall pay to the License Inspector or to his deputy, the amount of duties levied on the sales by him made, and not paid over.

He shall also furnish to the License Inspector, or his deputy, a full return, with a report, in detail, signed by himself or his assistant, chief clerk, agent or partner, stating the quantity of all moveable and immoveable property, effects, merchandise and stock in trade, subject to duty, which he has sold during the period not comprised in his last return, stating the amount of the sales of each day, and the total amount of the sales made by each person, firm or estate.

If no sales have been made by such licensed auctioneer during said period, the same shall be mentioned in his return.

Such return shall in either case be attested, under the oath or affirmation of the person making the same.

117. The License Inspector or his deputy, may receive such oath or affirmation, and may put to the person making the same all such questions as he may think fit, to which questions the deponent or affirmant shall make answer, under the sanction of the same oath or affirmation.

118. Every auctioneer and every person who sells goods by auction, charged with the duty of one per cent, but which goods may be sold by other than an auctioneer, who neglects to pay the amount of the duties, and to make the return aforesaid in the required form, shall incur a penalty of twenty dollars, for each day he neglects so to do.

119. The amount of duties received, and not so paid over, may be recovered, with costs, in the same prosecution as for the penalties.

The person, so in default, becomes liable to have his license declared forfeited, and such license, from the day a notice, to that effect, is inserted by the License Inspector in the *Official Gazette*, is revoked, null and void, and no new license can be granted to such defaulter, until entire payment be made, in principal and costs, of the amount due.

OBLIGATIONS IMPOSED ON PAWNBROKERS, AND PENALTIES FOR
CONTRAVENTIONS BY THEM COMMITTED.

120. Whosoever carries on the business of pawnbroking, or whosoever lends on pawn, without having a license to that effect, still in force, incurs a penalty of two hundred dollars.

121. No person shall keep more than one house, shop, or place of business, for taking goods in pawn, on money loans, under a single license, under a penalty of fifty dollars for each week, during which he contravenes this article.

122. Every pawnbroker shall expose on the outside of the door of his house, shop or place of business, a sign bearing his name, with the word "pawnbroker" written or printed thereon in large letters.

He shall also cause to be painted, or printed in plain letters, and placed, in a prominent part of his shop, a graduated scale of the rates the law allows him to charge on loans, and of the remuneration he is entitled to exact on the memorandum or notes he is obliged to keep in the manner provided in the following articles, as well as mentioning those he is obliged to keep gratuitously, under a penalty in each of these cases of forty dollars, for each week of his default so to do.

123. Before making a loan, he shall enter in a book, kept for that purpose, a description of the articles received in pawn, mention the sum loaned, the date of the month and year of the loan, the name of the pawner, the street he lives in, and the number of his dwelling, if it be numbered.

124. This entry must specify whether the pawner be a proprietor, tenant or sub-tenant,, or if he be merely a boarder in the house, using the letter (P) if he be a proprietor, (T) if he be a tenant, (S) if he be a sub-tenant, (B) if he be a boarder; the name of the proprietor of the house, as given by the pawner, if he is not the proprietor, shall also be entered.

125. Every article on which a loan is effected, shall be entered in a book kept monthly for that purpose, and shall be carefully kept.

These entries shall be made in the order of the receipt of the articles, and be designated by numbers; the first article received bearing No 1, and so to continue to the end of each month; and each memorandum mentioned in the following article, relative to the object placed in pawn, shall be inscribed with a number corresponding to the entry made in the book.

126. When taking articles in pawn, the pawnbroker shall give to the pawner a memorandum, or note, containing the description of the articles pawned, the name, place of residence of the pawner, the number of his house, and the indication of his quality, whether proprietor, tenant, sub-tenant or boarder, using the letters herein above indicated in article 124. On the back thereof the name and residence of the pawner shall be mentioned.

127. The pawner shall take such memorandum and if he fail to do so, the pawnbroker is forbidden to keep the articles put in pawn.

128. If the sum loaned be less than one dollar the memorandum is given gratuitously; if it be for more than one and less than two dollars the pawnbroker may exact one cent for giving the same, two cents if it be two dollars or above that amount, but does not reach the sum of five dollars; four cents if the sum loaned be five dollars or more, but does not reach the sum of twenty-five dollars: and seven cents if the sum loaned be twenty-five dollars or more.

129. No pawnbroker shall receive any money or valuable consideration whatever, for the keeping or storage of articles placed in pawn.

130. No pawnbroker is obliged to return the articles placed in pawn, unless the pawner remit to him the memorandum, except in the case hereinafter mentioned in article 137.

131. A duplicate of the memorandum shall be attached to the articles placed in pawn, and when said articles are returned, the pawnbroker shall write on each duplicate, the rate of profit made upon such articles, and keep one of these duplicates during one year.

132. If, in the course of one year, from the date of the pawning, the pawner offers to the pawnbroker the amount in principal of the loan, with the legal profits accrued, and delivers up, at

the same time, the memorandum above referred to, and the pawnbroker refuses, without reasonable cause, to return the articles by him detained, the pawner may declare the fact, under oath, before two justices of the peace of the district where the contravention has been committed, who shall summon before them the pawnbroker and the pawner, and examine them, with their witnesses, if any they offer.

133. If the tender of the memorandum, of the principal amount of the loan and the profits, within the delay of one year aforementioned, is proved under oath, the justices of the peace, shall order the immediate restitution, of the articles placed in pawn, the pawnbroker to receive such memorandum, principal and profits.

134. If, notwithstanding such order so given to him and the offers to him made, the pawnbroker persists in his refusal to deliver the articles, or to pay the value thereof, accordingly as the justices of the peace shall have adjudicated, they shall cause him to be imprisoned, in the common jail of the district to which he belongs, and he is there detained, until restitution of the articles pawned, or until full payment of their value to the pawner.

135. Every person who presents the memorandum to the pawnbroker, and offers him the payment of the loan and the profits, is in so far as regards the pawnbroker, held to be the proprietor of the articles placed in pawn.

136. The pawnbroker on receipt of payment and of the memorandum, shall hand over to him the articles pawned, and he is then relieved from all responsibility, unless, he shall have been previously notified, in writing by the real proprietor, forbidding him to deliver said articles to any other than himself.

137. In the case of such a notice being received by the pawnbroker, and likewise where the memorandum has been lost, destroyed or filched from the pawner, or fraudulently obtained from him, the articles remaining in the hands of the pawnbroker, the pawnbroker shall give to the person, who pretends to be the proprietor, a copy of the memorandum, with a form of affidavit of circumstances, which are stated to him, which affidavit shall be sworn to by the pretended proprietor, before a justice of the peace.

On verbal notice given, in the presence of a witness, by the pretended proprietor to the pawnbroker and to the pawner of the time and place when and where they should attend before the justice of the peace; (provided, that one day elapses between the day of notice and that of attendance,) the justice of the peace, at the time and place indicated, hears the parties and their witnesses on oath, and examines the documents produced, and awards the articles claimed, to him who establishes his right of ownership.

138. The judgment shall be in writing, and shall be delivered by the justice of the peace, to him who shall be declared to be the owner who, upon delivering it, in the presence of a witness, to the pawnbroker, acquires the right to redeem the articles.

If the pawner makes default, the statement under oath of the pretended proprietor of such article, establishes his right of proprietorship.

139. In the case where, for some one of the reasons above mentioned, the pawner cannot produce the memorandum, and no other person claims the articles pawned, his affidavit, given as hereinbefore provided, constitutes sufficient proof of his right of ownership.

In either case the pawnbroker must return the articles, on receiving what is due to him thereon, and, on his refusal to return them, he is subject to the penalties contained in article 158.

All these proceedings are without costs.

140. If the loan do not exceed one dollar, the pawnbroker has a right to receive two cents for the copy and affidavit, four cents if the loan be more than one dollar and does not exceed five dollars, and if the loan exceed five dollars, the pawnbroker shall receive five cents.

141. The pawnbroker shall sell by public auction all articles pawned, but not redeemed, within one year from, but exclusive of, the day of pawning, without the formality of a judgment to that effect, notwithstanding article 1971 of the Civil Code.

142. A catalogue containing the name and residence of the pawnbroker, a description separately of the articles, their number, the date when pawned, and notice of the sale containing the above mentioned particulars, and the day, hour and place of sale, shall be inserted in some newspaper in the locality, or in case there be no newspaper published there, then in the nearest locality wherein any newspaper is published, not less than three days previous to such sale, and in the interval between the publication and the sale, the articles shall be exposed to view, and open to public inspection.

143. So long as such sale has not taken place, the pawner may redeem the articles pawned, on paying to the pawnbroker what is due on them, and the pawner's share of the expenses incurred, by the publication mentioned in the preceding article, which share shall be the proportion, which the sum loaned on the articles redeemed bears to the total sum loaned, on the articles mentioned in such publication.

144. If the articles be not separately described in the catalogue, the pawnbroker shall pay to the owner thereof, a sum of not more than forty dollars, and not less than eight dollars, to be recovered in the same manner as penalties under this law.

145. Every pawnbroker shall enter in a book, kept for the purpose, an exact account of the sales by auction, of pawned articles, indicating therein the date when the articles were pawned, the name of the pawner, the date of the sale, the name and residence of the auctioneer, and the amount of such sale.

146. If the amount of the sale, exceed the loan, in principal and profits, the surplus shall be paid, after deducting the expenses of the catalogue, and the auction fees incurred, to the person in whose name the articles were pawned, in the proportion of the amount of the sale, to the total amount of the articles, comprised in the catalogue, provided a demand for such surplus be made within three years from the sale.

147. The pawner, or the person in whose name the articles were pawned, has a right to inspect the entry made of such sale, within the delay aforesaid of three years.

148. If the pawnbroker made no such entry in such book, if he refuses an inspection of such entry to the pawner or his representatives, if the articles have been sold for a greater sum than is entered in such book, if he did not sell the articles in conformity with the foregoing provisions of this law; if he refuses to pay the surplus of the sale; if the articles have been sold before the time limited; if they are not forthcoming, or have become depreciated in value, while so pawned; in each such case, the pawnbroker incurs a penalty of forty dollars, and shall pay to the pawner, as damages, treble the amount loaned, to be recovered before two justices of the peace of the district, reserving to the pawner his ordinary recourse for any excess of damages, if such there are.

149. No pawnbroker shall, except at public auction, purchase, either directly or indirectly, any articles pawned with him.

150. No pawnbroker shall receive articles in pawn, from a person appearing to be under fifteen years of age, or appearing to be under the influence of intoxicating liquor, nor buy, nor take in pawn, the memorandum or note aforesaid, of any other pawnbroker;

Nor receive in pawn on any Sunday or holiday, nor on any other day, before eight o'clock in the morning or after eight o'clock in the evening, except on Saturday evening and the evenings preceding Good Friday and Christmas, when he may keep his shop open until ten o'clock at night.

151. The justices, if they consider it necessary, may compel the pawnbroker to produce his pawnbook, memorandums, vouchers, and all documents pertaining thereto in his possession; and he shall produce these vouchers and documents in the state they were when the pawn was received by him. If he neglects and refuses to appear and produce these vouchers and docu-

ments, he becomes liable to the penalties hereinafter imposed, unless he shows sufficient cause to the contrary.

152. On demand of the License Inspector, every pawnbroker shall exhibit to him all his books, and the entries therein, and afford to him an examination of the same; such officer may, during business hours, visit and examine the shop of such pawnbroker.

153. If any person pawns the property of another, without the authority so to do of the owner, any two justices of the peace, may grant their warrant to cause the arrest of the offender, and on conviction, he incurs the penalty hereinafter mentioned, and forfeits the value of the property pawned, which he paid to the owner thereof, and may be recovered at the same time and in the same manner as the penalty.

154. Every person who knowingly receives in pawn from a journeyman mechanic, any goods of any manufacture, either separate or mixed with others and of materials plainly intended for manufacturing purposes, when these goods and materials are in course of preparation, but before completion, and being exposed for sale, or any goods, materials, linens or apparel, which have been entrusted to any person to wash, scour, iron, mend, manufacture, or for any purpose of a like nature, is convicted thereof, he shall forfeit the sum lent thereon, and forthwith restore the goods to the owner.

155. In all the cases mentioned in the preceding article, if the owner establishes by the oath or affirmation of a witness, before a justice of the peace of the district wherein the offence has been committed, that there is reason to believe, that any person has taken to pawn any such goods, such justices may issue a warrant for searching, within the hours of business, the books, house, shop or any other place occupied by the person suspected; and if such person refuses to exhibit, to the peace officer charged with such warrant, and authorized to search, his pledge-book, the goods pawned, or to allow admittance to such house, shop or other place, such officer may forcibly enter such house, shop or other place and dependencies, and make such search where he thinks fit for the goods in question, taking care to do no wilful damage.

156. If the pawned goods, or any part of them, are found, and the owner thereof establishes by proof, to the satisfaction of the justices, by the oath or affirmation of a witness or by the admission of the suspected person, that they so belong to such owner, the justices shall cause the same to be forthwith returned to such owner, and the occupant of such house, shop and other place shall incur the penalty mentioned hereinafter.

157. The provisions of this law, regarding pawnbrokers and pawners, extends to their representatives but they shall not be liable to any penalty, unless incurred by their own acts.

158. Every contravention of the above articles relative to pawnbrokers, wherein a penalty is not thereby specially imposed, is punishable by a fine of not less than ten dollars, nor more than fifty dollars at the discretion of the tribunal.

FINES AND PENALTIES AGAINST PEDLARS.

159. Every pedlar, travelling from town to town, and from house to house, in this Province, to sell or expose for sale, goods and merchandise, with the exception of those exempt by article 55, without being the holder of a pedlar's license, as hereinabove described, is liable to a fine of forty dollars for each article which he sells, barter or delivers, by any title whatsoever.

160. Every License Inspector, militia officer, constable or officer of the peace, may arrest and detain every pedlar trafficking without a license as aforesaid, and bring him before two justices of the peace, nearest to the place where such contravention has been committed, for the purpose of immediately prosecuting him, for such contravention; but he shall not be detained, without warrant of arrest, for any longer space of time than forty-eight hours.

161. Every licensed pedlar, who refuses to exhibit his license, to such License Inspector, Militia officer, constable or peace officer, upon their request, and after the lapse of a reasonable delay, may, in the same manner, be arrested and brought before two such justices of the peace, and be detained, until he has exhibited his license, provided that in either case, he be not detained, without warrant of arrest for more than forty-eight hours. Such pedlar becomes liable to a penalty of five dollars for each refusal to exhibit his license.

162. Every pedlar who leases or lends his license, or traffics with a license granted to another person, or with a license in which his own name is not inserted, as the name of the person to whom such license has been granted, incurs a fine of forty dollars for each contravention.

REGULATIONS RELATIVE TO FERRIES.

163. The Lieutenant-Governor in Council, may make and revoke, as required, the regulations he deems proper for the following purposes, viz :

Firstly—To establish the extent and the limits of ferries as aforesaid ;

Secondly—To define the modes and conditions of the issuing of licenses, the time for which they are issued, and the duty or fee payable for such license ;

Thirdly—To fix the tariffs and rates, for which persons and

goods shall be crossed on such ferries, and the manner in which such tariffs and rates shall be published, and the places of such publication ;

Fourthly—To fix the time, the hours, and the fractions of hours, during which the vessels employed on such ferries, shall cross and recross, or start from one side or the other of such ferry, for that purpose ;

Fifthly—To impose fines for every contravention of these regulations ; and such regulations have, during the time for which they shall be in force, the same effect as if they formed part of this law.

164. The Provincial Secretary shall cause to be published all the regulations established as aforesaid, in the french and english languages, in the *Quebec official Gazette*, at least three times during the three months which follow their date, and every number of the Gazette containing a copy of such regulations or of any of them, is proof of the existence of such regulations.

165. The proprietor, master or person in charge of any vessel employed for the transport of persons or goods over a ferry, as above stated, is considered to have acted as a ferryman, within the meaning of this law, and is liable to all the fines imposed by its authority, if he infringes the same, by acting in such manner.

FINES AND PENALTIES RELATIVE TO THE KEEPING OF
BILLIARD TABLES.

166. Any one who keeps for gain, a billiard table, without having a license, still in force to that effect, as hereinbefore stated, renders himself liable to a fine of fifty dollars for each table thus kept by him.

167. All sums of money or value paid, furnished or promised, directly or indirectly, by those who play upon such billiard tables to the keeper of the same, his employees or representatives, for so playing on the same, is considered gain within the meaning of this law.

168. Every person holding a license for a billiard table, shall cause to be painted or engraved upon such table, in visible and legible characters, the number of the license by virtue of which he is authorized to keep such table ; and he shall also cause the said license to be exposed, in a prominent and visible portion of the apartment in which such billiard table is placed.

169. Every such person incurs a fine of fifty dollars for each week during which he contravenes the provisions of the two preceding articles ; likewise all persons who, intentionally remove, deface or conceal any number so painted or engraved, incur a like fine of fifty dollars for each contravention.

FINES AND PENALTIES RELATIVE TO POWDER MAGAZINES AND TO THE SALE OF POWDER.

170. Any person who keeps or makes use of a powder magazine, for the storage of powder, without a license, shall be liable to penal prosecution under which he may be condemned to a fine of five hundred dollars, for all contraventions of this article committed up to the time of the institution of such prosecution, if it be the first, and, in case of repetition of the offence, he may be again prosecuted and condemned to pay a like fine of five hundred dollars for all contraventions committed in the interval, between the first prosecution and the second, and so on from one prosecution to another.

171. Every building, used for the storage or keeping of any quantity of powder, exceeding in weight twenty-five pounds, is held to be a powder magazine, within the meaning of this law.

172. No person shall keep for his own use, and not for sale or storage, in any building other than a powder magazine, any quantity of powder weighing more than ten pounds; and every person keeping a quantity of powder allowed by law, shall store it in a metal box or case, at a sufficient distance from all inflammatory agents, such as a lamp, candle, light, gas, stove, stove-pipe, hearth or fire, (and the above enumeration shall not be limitative,) shall be liable to a penal prosecution therefor, in which he may be condemned, to the payment of a fine of twenty dollars in the same manner, and in accordance with the rules mentioned, in article 170, for all contraventions of this article.

173. No provision of this law applies to powder magazines, nor to the magazines of Her Majesty, and does not affect the transportation, by the troops of Her Majesty, on military service, of the munitions of war, coming into powder magazines of Her Majesty, or going therefrom.

174. (*As amended by 43-44 Vic., c. 11, s. 34.*) Every person who sells or keeps for sale, whether by wholesale or retail, any quantity of powder, without having obtained a license to that effect, renders himself liable to a fine of ten dollars for each sale of powder; and for so keeping powder for sale, shall be liable to a penal prosecution therefor, in which he may be condemned to the payment of a fine of ten dollars for all contraventions of this article.

175. (*As amended by 43-44 Vic., c. 11, s. 35.*) Every person keeping powder for sale shall constantly keep, conspicuously designated, the part or parts of the building, where the powder is lodged, and keep placed above the entry of such building, a sign bearing these words: "Licensed to sell powder," under pain of a fine of five dollars, for each week, during which he contravenes this article.

176. The Lieutenant-Governor in Council may, from time to time, make the necessary regulations, conformably to the provisions of this law, for the reception, transportation, storage and delivery of powder.

177. No quantity of powder shall be stored, kept, removed, received or delivered, except in conformity with the provisions of this law, and the regulations made, or which shall be made, by virtue of the preceding article.

178. These regulations, may impose penalties for every infraction, or for all infractions, of the provisions of this law, relative to powder, for which no penalty has been imposed.

179. Every proprietor and tenant, of any powder magazine, is personally liable for all the penalties imposed, for the contravention of any regulations made by virtue of this law, in what concerns the removal of powder coming from, or going to such powder magazines.

180. The Lieutenant-Governor in Council may, through the intermediary of any functionary, or of such person, as he may name for that purpose, acquire from the Government of the Dominion of Canada, or from any person whomsoever, or he may cause to be built, one or several powder magazines, within the limits of this Province.

181. The Lieutenant-Governor in Council, may also appoint or employ the functionaries or persons he deems necessary, for the care, maintenance and the general service of every powder magazines, at such remuneration as he considers reasonable.

182. The powder magazines may be kept and guarded, for the benefit of the province, by the functionaries or persons mentioned in the preceding article; may be leased to private persons, or to a company, on the conditions, on and in the manner determined upon by the Lieutenant-Governor in Council, subject in both cases to the provisions of this law.

183. The rates which may be demanded and received for the storage of powder, in such magazines, are fixed by the Lieutenant-Governor in Council.

184. The Lieutenant-Governor in Council may, on such terms and conditions as he deems fit, authorize the Treasurer to pay a subsidy to one or more persons, to assist in the construction of any powder magazine, near to but outside the radius of five miles aforesaid, of the cities of Quebec and Montreal erected under the provisions of this law, provided that such subsidy shall not exceed the amount of one-third of the price of the powder magazine, and that the plans, specifications, demand of tenders and the contract for such building, shall have been previously approved of, by the Commissioner of Agriculture and Public Works.

185. The Lieutenant-Governor in Council may, from time to time, but on the conditions, and under the regulations he deems fit, permit the storage of powder in quantities exceeding one hundred pounds, in the vicinity of public works, railways, canals, and other similar works of a public nature, or, generally speaking, in the country parts; and exempt such storage, in the case of each of such works, from the operations of the provisions, or of any one of the provisions of this law.

FINES AND PENALTIES RELATIVE TO CIRCUSES AND MANAGERIES.

186. No person, but one holding a license to that effect, shall open or exhibit a circus or manerie, under pain of a fine of one hundred dollars, for each performance or exhibition.

187. Every person, opening or exhibiting a circus or manerie, shall show a license to the License Inspector, or to one of his deputies, or to any person authorized, to that effect, by the License Inspector, on a simple demand, verbal or written, on their part, and in default of so doing, such person is held to have no license, and is punishable accordingly.

188. The License Inspector, or one of his deputies, or any other persons, authorized to that effect, by the License Inspector may, on a warrant obtained, on satisfactory proof by affidavit, and signed by a judge of the Superior Court or district magistrate, or a justice of the peace, seize the goods, animals and effects forming part of a circus and manerie, for the opening or exhibition of which, no license shall have been taken, or for which they may have refused to show the required license; and may, without any other preliminary judgment or formalities, sell and adjudge, at public auction, the goods, animals and effects thus seized, for the amount of the fine incurred, and costs of the sale.

SEARCHES IN CONNECTION WITH THE CONTRAVENTIONS OF THE PROVISIONS OF THE PRESENT LAW, AND THE PARTICULAR DUTIES OF LICENSE INSPECTORS RELATIVE TO THE SAME.

189. Each License Inspector personally, by his deputy, or any other person by him appointed, to that effect, shall, within the limits of his district, make a careful search for infractions of this law, and, to this effect, he shall visit at least once a year :

1. Every powder magazine, and every place where powder is kept, for sale or in storage ;
2. Every shop, or place of business of a pawnbroker and auctioneer ;
3. Every saloon or place, public or private, where any billiard table, pigeon-hole board, mississippi board, or bagatelle board, is kept or supposed to be kept for gain ;
4. Every steamboat or vessel on board of which are sold intoxicating liquors ;

5. Every inn, restaurant and temperance hotel, railway buffet and liquor shop.

190. (*As amended by 43-44 Vic., c. 11, s. 36.*) Every master of a house, steamboat or vessel, of which the visit and inspection are as hereinabove authorized, refusing admission to such License Inspector, his deputy, or other person authorized by him or a justice of the peace, any where, and any other person hindering the visit and inspection in question, or molesting a policeman in the execution of his duty, relative to these objects, becomes liable to a fine, not exceeding fifty dollars and not less than eight dollars for each contravention.

191. (*As amended by 43-44 Vic., c. 11, s. 37, and by 44-45 Vic., c. 4, s. 6.*) It is also the duty of the License Inspector, to prosecute contraventions of this law, whenever he is requested so to do by a municipal corporation, and such corporation has assumed the responsibility for the costs to be incurred.

In any municipality where a prohibitory by-law is in force, or where the council thereof prohibit the confirmation of certificates to obtain licenses for the sale of intoxicating liquors, it shall be the duty of the council of such municipality to prosecute all offenders against the Quebec License Law and its amendments, in which case the municipality shall be responsible for all costs and shall receive the whole fines collected for contravention of the said law.

In case, however, such council refuse to prosecute for infractions of the said law when notified thereof, it shall be lawful for the License Inspector to prosecute the offenders at the cost of the municipality: all fines collected in such cases at the suit of the Inspector, shall be distributed one quarter to the municipality, one quarter each, to the License Inspector and to the informer, and the remainder to the consolidated revenue fund of the Province.

192. It is the duty of the License Inspector, to institute prosecutions, every time he has reason to believe, that a contravention of this law has been committed, and that such prosecutions can be maintained and, at least, the costs recovered.

193. Every time he is called upon to institute a prosecution, he may, if he has reason to believe that the prosecution cannot be maintained, or to fear that the costs cannot be collected from defendant, exact from the person asking for the institution of such prosecution, the deposit of a reasonable amount to cover the same.

HOW AND BEFORE WHAT TRIBUNALS PROSECUTIONS SHALL BE BROUGHT FOR SUCH CONTRAVENTIONS. GENERAL PROVISIONS.

194. The fines and penalties imposed by this law, or by the regulations made under its authority, and the duties and fees exigible under the same, shall be recovered in the manner and before the tribunals hereinafter indicated.

195. Every prosecution shall be brought in the judicial district where the contravention has been committed, or in that where the contravening person resides. If the contravention has been committed on board a steamboat or other vessel, the prosecution may be instituted in any judicial district whatsoever of the Province of Quebec; and if the contravention has taken place on the borders of two adjacent districts where it is difficult to determine in which of said districts the offence was committed, the prosecution may be instituted in either of said districts.

196. (*As amended by 43-44 Vic., s. 11, c. 38*). All actions or prosecutions, where the amount claimed does not exceed one hundred dollars, may be, optionally with the prosecutors, brought before the Circuit Court, but without any right of evocation therefrom to the Superior Court, or before two justices of the peace in the judicial district, or before the Judge of the sessions of the peace, or before the Court of the recorder or of the police magistrate or before the district magistrate, or before the Recorder, or before any other officer having the powers of two Justices of the Peace.

But if the amount claimed exceeds one hundred dollars they shall be brought before the Circuit Court or the Superior Court, according to the competency of the Court, with reference to the amount claimed.

197. (*As amended by 43-44 Vic., c. 11, s. 39*). In the Circuit Court and the Superior Court, the service of the summons and of the other proceedings, in those prosecutions and actions, are made in the manner provided for suits between lessors and lessees.

198. Except as regards actions brought in the Superior Court or Circuit Courts, service of the summons is made by any bailiff or constable, named for the judicial district where the prosecution is instituted, by leaving a copy certified by the magistrate, judge, or functionary or the attorney *ad litem* of the prosecutor, who has signed the original, with the defendant personally, or a grown and reasonable person of his family at his domicile, or place of business.

199. The service by a bailiff, shall be certified under his oath of office, and that made by a constable, shall be proved by means of a return, sworn to before a justice of the peace, in the judicial district, or before the Court.

Before the other Courts the services of proceedings and convictions, are made in the same manner, as the service of the summons.

200. Before the Circuit Court and the Superior Court, in all prosecutions under the authority of this law, the procedure shall be summary, and be the same, *mutatis mutandis*, as that contained in the first chapter, of the second title, of the second book of the code of civil procedure of Lower Canada.

201. On all prosecutions instituted before two justices of the peace, a judge of the sessions of the peace, a recorder, police or district magistrate, the provisions of the Act of the Parliament of Canada (32 and 33 Vic., chapter 31), concerning the duties of justices of the peace out of sessions, and summary convictions, and the provisions of chapter 103 of the Consolidated Statutes of Canada, not abrogated nor modified by the Parliament of Canada, apply, except in cases of incompatibility, with the provisions of the present law, in all matters wherein no special provision has been made therefor.

IN WHOSE NAME PROSECUTIONS ARE INSTITUTED AND THE PROCEDURE THEREON.

202. The actions or prosecutions, for contraventions of this law, are brought in the name of the License Inspector, for the district in which the contravention has been committed, or in the name of the municipality of the city, town, or other local municipality, where such contravention has been committed, or by an informant.

203. But such prosecutions, instituted by a municipal corporation or an informant, and the judgment rendered on such prosecution, become of no effect, if a prosecution is brought by the License Inspector, and cannot be pleaded thereto, unless the amount sued for, by such corporation, or informant, has been paid as required by law, or the defendant has undergone the imprisonment, to which he has been condemned, in default of payment.

204. It is not necessary to allege, on a prosecution instituted under the authority of this law, in the declaration, information, complaint or summons, negative facts nor any facts, which it devolves upon the defendant to prove.

205. (*As amended by 43-44 Vic., c. 11. s. 40.*) Several cases of contravention of this law, committed by the same person, may be cumulated in one and the same declaration, information, complaint or summons, provided that such declaration, information, complaint or summons contains specially, the time and place of each contravention; and in such case, the forms indicated by this law shall be modified, *mutatis mutandis*; but no further additional fees shall be allowed to the attorneys than if there had been only one contravention.

206. If the prosecution be brought before a tribunal, other than the Circuit Court or the Superior Court, the amount of the fine and penalty shall not exceed, on the same prosecution, one hundred dollars, notwithstanding the number of contraventions.

207. Before every tribunal, except the Superior Court and Circuit Court where the ordinary rules of procedure, in inference to amendments prevail, any declaration, information, com-

plaint or summons may, on application of the informant, to that effect, be amended, in substance or in form, without costs.

Upon such amendment, the defendant may obtain a further delay, in which to make his defence and proof.

208. Any husband, living and residing with his wife, when any contravention of this law is committed by her, whether she is a public trader or not, may be prosecuted and convicted, in the same manner, as if he himself had contravened this law.

209. In every prosecution, under this law, before any tribunal other than the Superior Court and Circuit Court, in which courts the ordinary rules of procedure, as to the taking of evidence prevail, the tribunal may summon before it, any person represented to it as a material witness therein; and if such person refuses or neglects to attend on such summons, the tribunal, if from affidavits, or from the circumstances of the case, it is of opinion that the witness refuses to appear, and thereby the ends of justice may be defeated, may issue its warrant for the arrest of such person; and thereupon, he shall be brought before the tribunal, and he refuses to be sworn, or to affirm, or to answer any questions touching the case, he may be committed to the common jail, there to remain, until he consents to be sworn or to affirm, and to answer.

210. If, in addition to the cases mentioned in the preceding article, any person summoned as a witness, to give evidence before a tribunal, touching any of the matters relative to this law, neglects or refuses to appear at the time and place appointed for that purpose, without reasonable excuse, and in respect of the reasonableness of which excuse, the tribunal seized with the prosecution for the penalty mentioned in this law shall decide, or appearing, refuses to give evidence upon oath, shall incur, for such neglect or refusal, a penalty of forty dollars even though the prosecution may have terminated, without his having appeared or given evidence.

211. Upon the demand of either party, the tribunal may, in its discretion, receive, and cause to be taken in writing, the depositions of the witnesses then and there present, and postpone the trial to a further day fixed for that purpose.

212. Every person, other than the defendant, summoned or examined as a witness in any prosecution brought under this law, is bound to answer all questions put to him, and which are pertinent to the issue, notwithstanding any declaration on his part, that his answers may disclose facts tending to subject him to any penalty imposed by this law; but such evidence shall not be used against him in any prosecution.

213. No defendant shall be examined as a witness, in any prosecution under this law.

214. In prosecutions for the sale, without license, of intoxicating liquors, it shall not be necessary that any witness should depose, to the precise description of the liquor sold, nor shall it be necessary to state the quantity of liquor sold, except in the case of offences where the quantity is essential, and then it shall be sufficient to allege the sale more or less, than such quantity.

215. The rigorous precision, as to the mention of time in the complaint, is not necessary in the proof to justify a conviction; it is sufficient to prove that such contravention was committed, on or about the time mentioned.

216. The production of the license, constitutes sufficient evidence of the payment of the duty thereon, unless the party prosecuting proves, that the duty has not been paid, in which case the license, without such payment, is deemed to be invalid.

217. In an action or prosecution against a defendant accused of having carried on, without a license, the business of an auctioneer, the following are reputed *prima facie* evidence of the auction sale:

1. The fact of having placed publicly, to be bid upon any article, merchandise, or property immoveable or moveable, before an assemblage of persons, in order to induce them, or any number of them, to purchase the same.

2. The publishing, in any newspaper or handbill, of a notice of an auction sale, by defendant.

3. The exhibiting to view, in, on, or near his house or dependencies, of any sign, printed matter, painting or writing, indicating, or of a nature to indicate, that he is desirous of acting as an auctioneer, or the fact that such have been exhibited with his knowledge or consent.

218. The proof that a person exhibits, or exposes to view, or permits that there should be exposed to view, in, on or near a house or its dependencies, belonging to, or occupied by him, any sign, painting, writing, or printed matter, indicating, or tending to indicate that a billiard table is kept in such house, or its dependencies, is *prima facie* evidence, that such person keeps a billiard table for gain.

219. Proof that a billiard table is kept in an inn, temperance hotel, railway buffet or restaurant, is held to establish, that such table is thus kept for gain.

JUDGMENTS.

220. When a prosecution, instituted under the authority of this law has been brought before two justices of the peace, judgment may be pronounced by one of them in the absence of the other, provided that such judgment be reduced to writing, and signed by both justices.

221. When a prosecution has been brought before two justices of the peace, and that they fail to agree on the judgment to be rendered, one or the other of such justices may sign a certificate, to that effect, and transmit it to the License Inspector, who thereupon, may institute a new action for the same contravention.

222. In default of payment of any fine imposed, or of any sum claimed under this law, the contravening person condemned to pay the same, shall be imprisoned, and detained in common gaol during a period of three months, unless that another period of detention be prescribed.

223. The penalty, for a repetition of the contravention, against any one who shall have incurred a subsequent condemnation, for a contravention of the same nature and kind, under the authority of this law, except in cases otherwise herein specially provided for, is a fine of one hundred dollars and imprisonment for six months, in default of payment.

224. Every judgment or conviction, shall contain a condemnation of the defendant to such imprisonment, in the cases mentioned in the two preceding articles, and in all other case wherein a similar legal provision exists in this law.

PROVISION AS REGARDS COSTS.

225. (*As replaced by 43-44 Vic., c. 11, s. 41.*) 1. In all prosecutions or actions brought before the Circuit Court, the fees of the clerk of such court, of the attorney and of the bailiff shall be the same as those which are now allowed in the tariff of fees for the class of actions of forty dollars and under, but above twenty-five dollars.

2. In all prosecutions or actions brought before the Superior Court, the fees of the prothonotary of such court, of the attorney and of the bailiff shall be those which are now allowed in the tariff of fees for the class of actions in the Circuit Court of sixty dollars and over, but not exceeding eighty dollars.

In all other prosecutions or actions the following fees shall be allowed :

a. To the clerk :—

	\$	cts.
For original summons	0	20
“ each copy of do	0	10
“ original subpoena	0	15
“ each copy of do	0	10
“ original warrant	0	30
“ each copy of do	0	10

For original bail-bond.....	0 30
“ each copy of do.....	0 10
“ warrant of seizure and sale.....	0 30
“ “ commitment.....	0 30
“ each witness sworn.....	0 10
“ drawing up every deposition.....	0 30
“ minute of proceedings in each case.....	0 50
“ conviction.....	0 30
“ copy of conviction.....	0 20
“ bill of costs.....	0 20
“ certificate of taxation.....	0 10

b. To the bailiff, peace officer or constable :—

	\$ cts.
For the service of any summons, warrant, subpoena or order and return.....	0 20
“ each mile travelled to serve the same (no allowance for mileage in returning).....	0 20
“ every arrest, exclusive of mileage.....	1 00
“ seizure and sale under warrant, including publication, but exclusive of mileage.....	1 50
“ seizure only, not followed by sale.....	0 75

c. To the attorney :—

	\$ cts.
When no witnesses are examined.....	5 00
“ witnesses are examined.....	8 00

d. Witnesses shall be allowed one dollar per day and ten cents for each mile travelled by them to attend the court when they reside more than five miles from the place where the court is held.

4. In any case, such further and other fees, as are not provided for in the above lists, shall be allowed the prothonotary, clerk of the Circuit Court, clerk, bailiff, constable or attorney, as shall be taxed at the discretion of the Court, tribunal or functionary before whom the prosecution or action is brought or heard ; and when so taxed, such additional fees shall be as lawful and valid as if they were specially enumerated in the above lists.

226. No fee shall be paid for any summons or warrant issued by a justice of the peace, in conformity with this law, when the same has reference to goods pawned.

227. No costs shall be adjudged against the License Inspector, in any action or prosecution instituted under this law; but, on the recommendation of the tribunal which has rendered the judgment, or of the License Inspector, the Treasurer of the Province may, at his discretion, pay to the person, in favor of whom judgment has been pronounced against the License Inspector, the costs or indemnity to which he may deem, such person, equitably entitled.

228. When a municipal corporation, after having been requested by any person, other than the License Inspector, to prosecute any contravention of this law, refuses or neglects, for fifteen days from such demand, to institute the prosecution, if such person has prosecuted in his own name and obtained a conviction against the contravening party, and that the cost of prosecution cannot be recovered from defendant, the corporation is bound to pay the prosecutor, (to whom a right of action is accorded to recover the same) all costs incurred, whether he shall have actually disbursed or not that amount, or any part thereof.

The same provision and right of action shall apply, where prosecutions are instituted by any informant, at the request of a corporation.

PROVISIONS RELATIVE TO THE EXECUTION OF JUDGMENTS.

229. (*As amended by 43-44 Vic., s. 11, s. 42*). In default of immediate payment of the fine and costs, the prosecutor may, upon the rendering of the judgment or conviction, or at any time during the delay, if any, granted to the defendant, make option whether the defendant shall be first imprisoned, for the time mentioned in the judgment or conviction, or shall be first proceeded against by seizure. In the latter case, the amount of such fine and cost is levied, by a warrant of seizure and sale, of the moveable effects of the defendant; and in default of moveables and effects, or in case they be insufficient, the defendant shall be imprisoned, but in either case, he may be discharged from imprisonment, by paying the fine in full, all costs incurred at the time of the conviction and subsequent costs.

Except in the case of full payment as aforesaid, no defendant imprisoned in virtue of any provision of this act, shall be liberated on the ground of any defect of form in the warrant of commitment, nor without due notice given to the prosecutor, nor shall any partial payment affect or modify the terms of the judgment pronounced against him in so far as imprisonment is concerned.

230. Any one knowing, or having reason to believe, that a commitment has been issued against any person under this law, who prevents the arrest of the defendant, or procures or facilitates

by any act, counsel, or in any other manner whatsoever, his avoidance of arrest or who provides defendant with the means of avoiding arrest, is liable to a fine of forty dollars.

231. The execution of a judgment, rendered in the Superior Court, or in the Circuit Court, may take place on the expiration of two days, from the date of such judgment.

232. In the case where *contrainte par corps* is had recourse to, in the said Superior or Circuit Courts, it is granted by one of the judges of the Superior Court, or by the prothonotary of the said court or by the clerk of the Circuit Court, on a summary petition, alleging that the defendant has not paid the total fine, or the amount claimed, and the costs of the prosecution.

It is not necessary that defendant should be notified of the presentation of such petition.

233. Each term of imprisonment, under this law, is reckoned from the date of incarceration.

234. If the conviction be for having sold, or allowed to be sold, intoxicating liquors on board any steamboat or vessel, without the requisite license, the fine and costs may be equally levied, by seizure and sale of the tackle and furniture of the steamboat or vessel, on board which such liquors have been sold.

235. If the conviction be for having kept a billiard table, without a license, or for any contravention of articles 166, 168 and 169 of this law, the fine and costs may be levied by seizure and sale of any billiard table in possession of defendant at the time of the rendering of the judgment, whether the defendant be or be not the proprietor thereof.

236. The tribunal may, at its discretion, in case the fine and costs be not immediately paid, fix an ulterior day for payment, and order that the defendant be placed in custody unless he binds himself with sureties, to the satisfaction of the said tribunal, (which is hereby authorized to take the security under the form of an obligation or otherwise, as it may deem fit), to appear on the day fixed, and if on the day appointed the fine and costs be not paid, the complainant may make his option, and the defendant shall be dealt with in accordance with the article 229 of this law.

237. When a married woman shall have been convicted, in an action instituted under the authority of this law, the complainant may exercise the option whether to proceed by seizure and sale, either against the goods of the married woman, or of her husband; and moreover, in case the goods of one of them should be found insufficient, then against the property of the other, provided they habitually live together.

238. On the condemnation of one member of a copartnership,

under the authority of this law, the right of the prosecutor to proceed by seizure and sale, may, in case the goods and effects of the defendant be found insufficient, be exercised against the goods and effects of the copartnership, found on the premises, where the contravention has been committed.

RECOURSE BY CERTIORARI.

239. (*As amended by 43-44 Vic., c. 11, s. 43*). Unless that within forty-eight hours after conviction, judgment, or order in any action or prosecution, instituted under this law, the defendant deposits, in the hands of the clerk of the justices of the peace, or of the Court which has adjudicated, the full amount of the fine and all costs, and a further sum of fifty dollars, to secure the payment of such costs as may be subsequently incurred, no action, prosecution, conviction, judgment or order shall be taken by *certiorari*, to any other Court, and in default of accomplishing these requirements, the notice of application for *certiorari* shall not suspend, retard nor affect the execution of such conviction, judgment or order.

The tribunal or Judge, to which such application is made, shall dispose of the same upon the merits, notwithstanding any variance, between the information and the conviction, or of any defect in form or substance therein, provided, it can be understood from such conviction, that the same was made for an offence against some provision of this law, within the jurisdiction of the justice of the peace, recorder, police magistrate or district magistrate who made or signed the same, and it can be understood from such conviction, that the appropriate penalty or punishment for such offence was intended to be thereby adjudged, and, in all cases where it appears that the merits have been tried, and that the conviction is valid under this law, such conviction shall not be quashed, and, in case the original record is before the tribunal or judge, it shall be remitted to the court below.

There is no appeal, from such conviction, judgment or order, to any Court of Quarter Sessions or Queen's Bench.

Any person applying for a writ of prohibition in reference to anything done or sought to be done, under this act and its amendments, shall deposit with the prothonotary of the court before which the application is made, and before it is made, the sum of thirty dollars to secure the payment of the costs of the adverse party if the petition be dismissed.

HOW DUTIES AND FINES SHALL BE APPLIED.

240. All the duties, levied under the law, shall be paid by the License Inspector and all other functionaries charged with their collection, under the same authority, to the Treasurer of the Province, and shall form part of the Consolidated Revenue Fund, and any proportion thereof may be applied from time to time, by

the Lieutenant-Governor in Council, under the direction of the Treasurer, to the payment of all expenses incurred for the carrying out of this law, and the costs incurred in actions instituted for contraventions of the same.

241. When the prosecution is instituted by the License Inspector, and in his name, the fine recovered shall be applied in the following manner, viz :

1. If the full amount of fine and costs have been levied, the half of the fine belongs to the License Inspector, he being obliged to pay, the one half, of such half to the informer, if there be one, and the balance is remitted to the Treasurer, to form part of the Consolidated Revenue Fund.

2. If the fine and costs be not paid in full, the amount levied is applied in the first instance, to the payment of costs, and the balance is divided between the License Inspector, the informer (if there be one), and the Treasurer in the proportions mentioned in the preceding paragraph.

3. The preceding distribution does not apply to fines levied, for contraventions of this law, in the city of Montreal under section 74; such fines shall be applied in the following manner, viz :

4. If the fine and costs be recovered in full, fifteen dollars thereof belong to the informer, a like amount to the License Inspector, and the balance to the Treasurer.

5. If the fine and costs be not paid in full, the amount levied shall be applied, in the first instance, to the payment of costs, and the balance divided in the last named proportion, namely fifteen ninety-fifth portions of the amount, to the License Inspector and informer each, and the remainder to the Treasurer.

242. The fine and costs, or the amount levied, are payable into the hands of the License Inspector for the district, who shall, without delay, apply, divide and apportion, the amount recovered, in the manner prescribed by the foregoing articles.

243. (*As amended by 43-44 Vic., c. 11, s. 44.*) When the prosecution is instituted by a municipal corporation, or by an informant, the fine levied is applied in the following manner :—

1. If the full amount of the fine and costs be levied, the half of the fine belongs to the municipality, or to the informant, with the obligation, in either case, to pay over, the half of such half, to the informer, (if there be one,) and the balance is remitted to the Treasurer, to form part of the consolidated revenue fund.

2. If the total amount of the fine and costs be not levied, the amount recovered is applied, in the first instance to the payment of costs, and the balance is divided, in the manner and proportions indicated in the preceding paragraph.

The provisions of section 242 shall apply to the present section as well as to section 241.

244. No fine incurred, under the authority of this law, shall be remitted, except by and with the authorisation of the Lieutenant-Governor in Council.

245. Every clerk of the judge of sessions of the peace, of the justices of the peace, of the recorder, and of the district or police magistrate and the prothonotary of the Superior Court and the clerk of the Circuit Court, shall, during the months of April and October of each year, transmit, under a penalty of one dollar for each day during which the same is wilfully neglected, (such penalty to be recovered in the same manner as is provided by this law for the recovery of penalties,) to the Treasurer of the Province, a statement of all prosecutions, instituted under this law, which have been brought before them and adjudicated upon, during the six months ending on the thirty-first day of March and the thirtieth day of September respectively, and such statement shall mention, the names of justices or judges, before whom each case has been tried, the name of each defendant, the date of every judgment, and the amount of fine or other condemnation in each case.

ADDITIONAL ENACTMENTS REGARDING PROSECUTIONS.

246. Every prosecution against an auctioneer or a pawn-broker, under this law, shall be instituted within twelve months, and all others within six months of the contravention, unless otherwise provided.

247. No action shall be maintained against a License Inspector, by reason of his official acts, unless it shall have been instituted within the six months, from the date of the act which gave rise to it.

248. Under a plea of general denial, the License Inspector may prove all facts of a nature to establish a special defence, in the same manner as if he had pleaded the same. On dismissal or discontinuation of the complaint or action the defendant is entitled to a condemnation for costs in his favor, against the adverse party.

249. If the judgment be rendered in favor of such party, and the tribunal certifies, that the defendant had reasonable grounds to justify his proceedings, the plaintiff has no right to costs, and shall only recover nominal damages.

ADDITIONAL DUTIES AND PRIVILEGES OF LICENSE INSPECTORS.

250. There shall be published, a classified list of all persons having obtained licenses under this law, by the different License Inspectors, once a year or more frequently, at the periods, and in the newspapers, indicated by the Treasurer.

251. Every License Inspector, and every other functionary

receiving public monies, is accountable for, and shall pay and account for, to the Treasurer of the Province into whose hands he shall pay, at the periods and in the manner ordered by the latter, all sums of money which he shall have levied arising from the duties imposed by this law, as well as for all other sums of money, which the law obliges him to pay to the said Treasurer, which belong to the Provincial revenue and form part thereof.

252. In rendering his accounts to the Treasurer, the License Inspector shall transmit, in addition to the information which he shall be ordered to give, a statement shewing the sums received by him for duties on auction sales, and the number of licenses he shall have issued.

253. With the consent and approbation of the Treasurer, each License Inspector may appoint one or more deputies for the performance of his duties, under this or any other law, and such deputies, as well as the License Inspector, shall take and subscribe to the oath required by the ninth section of the Treasury Department Act, in the manner therein prescribed.

254. An extra sum of one hundred dollars annually, may be granted by the Lieutenant-Governor in Council, to any License Inspector, for travelling expenses, in addition to his ordinary salary.

FINAL PROVISIONS.

255. The following acts and parts of acts are hereby repealed :

1. The Quebec License act, 34 Victoria, chapter 2.
2. The Act of this Province, 35 Victoria, chapter 2.
3. The Act of this Province, 36 Victoria, chapter 3.
4. The Act of this Province, 37 Victoria, chapter 3.
5. The Act of this Province, 38 Victoria, chapter 5.
6. The Act of this Province, 39 Victoria, chapter 6.
7. Section 12, 37 Victoria, cap. 8 of the acts of this Province, in so far only as such section is affected by this law, and generally all other provisions of any act of this Province containing any enactment contrary to the provisions of this law; but the dispositions of this act shall in no way affect the rights and powers belonging to cities and incorporated towns by virtue of their charters and by-laws, and shall not have the effect of abrogating or repealing the same.

256. No repeal hereby enacted, shall have the effect of reviving any act, or provision of law, repealed by the acts or parts of acts hereby repealed; nor shall any such repeal be held to imply the enactment of any provision, contrary or contradictory to any provision so repealed.

257. Every offence, wholly or partly committed against any act or enactment hereby repealed, prior to such repeal, shall be

dealt with, inquired of, tried, determined and punished, and every penalty in respect of any such offence shall be recovered, in the same manner as if the said acts and enactments had not been repealed; and every act duly done, and every commission, appointment, office or salary, paid, made or fixed, and every warrant and other instrument duly made or granted before such repeal, and every right, liability, privilege and protection, in respect of any matter or thing committed or done before such repeal, shall continue and be of the same force and effect, as if the said acts and enactments had not been repealed; and every action, prosecution or other proceeding commenced before such repeal, or thereafter commenced, in respect of any such matter or thing, may be prosecuted, continued and defended, as if such acts and enactments had not been repealed.

258. All provisions of the "Municipal Code of the Province of Quebec," whereby any municipalities are empowered to regulate the storage of gunpowder or any other matter, shall apply only, in so far as such storage, or such other matter is not, or shall not, at any time hereafter, be regulated by this law or by any regulations made in virtue thereof.

259. This law shall be known, and may be designated and cited as "The Quebec License Law of 1878."

260. The Treasurer of the Province, whenever he shall deem it conducive to the better administration and carrying out of the revenue laws, may from time to time at the public expense, cause to be prepared, printed and distributed, in the english and french languages, or in either of them, and in such numbers and manner as he may see fit, pamphlets containing the laws in force respecting licenses or the treasury department and such acts or portion of acts, regulations of the Lieutenant-Governor in Council, and instructions from the treasury department as he may deem desirable in connection with the said laws.

But such pamphlets shall be deemed to be printed for convenience only, and nothing contained therein shall prevail against the regularly promulgated versions of the law or the meaning or construction thereof.

FORMS.

261. The forms contained, in the following schedules and forms, which schedules and forms are part of this law, or other forms to the like effect, shall be sufficient for the purposes for which they are intended.

262. This law shall come into force on the day of the sanction thereof.

FORM A. (*As amended by 43-44 Vic., c. 11, s. 45.*)

FORM OF CERTIFICATE FOR OBTAINING A LICENSE TO KEEP AN
INN, TAVERN OR RESTAURANT,

[*as the case may be.*]

Province of Quebec, }
district of }

We, the undersigned municipal electors of the of
, in the county of , do hereby certify that,
, of , in the county of
in the district of , who is desirous of obtaining
a license to keep at
is personally known to each of us, that he is honest, sober, and of
good repute, and is a fit and proper person for keeping a house
of public entertainment :—that we have visited or are acquainted
with the house and premises situate at , for
which the license is required, and that he has in and on the same,
bedding, stabling and accommodation for travellers, as required
by law.

We further certify that a house of public entertainment is re-
quired at the place where the said house is situate.)

Given under our hands, the day of
in the year one thousand eight hundred and

{ Municipal Electors for
the County of

FORM B.

FORM OF AFFIDAVIT TO BE MADE BY A PERSON DESIROUS OF
OBTAINING A LICENSE TO KEEP A HOUSE OF
PUBLIC ENTERTAINMENT.

Province of Quebec, }
District of }

I, , of , in the county of , in the
district of , who am desirous of obtaining a license
to keep situated at being duly sworn,
do make oath and say, that I am in all respect duly qualified ac-
cording to law, to keep a house or place of public entertainment.

(*Signature,*)

Sworn to before me, at , this day
of one thousand eight hundred and

J. P. for the district of

The foregoing certificate having been this day submitted to the

municipal council of (or corporation of) and the said council (or corporation) being duly assembled and having deliberated thereon, confirm the same certificate, in favor of therein mentioned.

Signed at , this day of , one thousand and eight hundred and

P. Q., *Mayor.*

R. S. *Secretary.*

FORM C.

WHEN THE CERTIFICATE IS CONFIRMED UNDER THE PROVISIONS OF THE ARTICLES 14 AND 33.

The foregoing certificate having been this day submitted to us, conformably to the articles 14 and 33 of The Quebec License Law of 1878, 41 Vict., cap. 3, we do hereby confirm the same.

(*Signatures*)

FORM E.

FORM OF ATTESTATION MENTIONED IN ARTICLE 25.

I the undersigned attest and certify that (———*his name and quality*) on the day of 18 , filed in my office a notice of application for a license (*state what license he applies for*) to be used in a house situated in (*name the ward, street and number*) ; that the said notice was on the———day of———entered in the books kept for that purpose under the article 21 of The Quebec License Law of 1878, and was inserted in the table prepared and posted in (*name the place*) of the City Hall conformably to articles 23 and 24, and that it has so remained posted to this day.

In testimony whereof I have signed this present attestation.

(*Signature.*)

Montreal, city hall, this———day of———18

FORM G.

Know all men by these presents, that we T. U., of V. W., of , and X. Y., of are held and firmly bound unto Her Majesty, Queen Victoria, Her Heirs and Successors, in the penal sum of six hundred dollars of good and lawful money of Canada, that is to say, the said T. U. in the sum of two hundred dollars, the said V. W. in the sum of two hundred dollars, and the said X. Y. in the sum of two hundred dollars, of like good and lawful money, for payment of which, well and truly to be made, we bind ourselves and each of us, our heirs, executors and administrators, assigns firmly by these presents.

Whereas the above bounden T. U. is about to obtain a license to keep , the condition of this obligation is such, that if during all the time such license remains in force, the said T. U. pays all fines and penalties which he may be condemned to pay for any offence against the provisions of the Quebec License Law of 1878, relative to houses of public entertainment and restaurants, and does, performs and observes all the requirements thereof and conforms to all rules and regulations that are or may be established by competent authority in such behalf, then this obligation shall be null and void, otherwise to remain in full force, virtue and effect.

In witness whereof, we have signed these presents with our hands, and sealed them with our seals, this day of

, 18

T. U. [L. s.]
V. W. [L. s.]
X. Y. [L. s.]

Signed, sealed and delivered, }
in the presence of us.

SCHEDULE H. (*Repealed by 43-44 Vic., c. 11, s. 46.*)

FORM I.

FORM OF DECLARATION.

Province of Quebec, }
District of }

Before (*name and designate the justice or justices.*)

(*License Inspector,*) of the city, (town, township, or parish) of (*name of the city, town, township or parish,*) in the district of (*name of the district,*) License Inspector in behalf of our Sovereign Lady the Queen, prosecutes, (*name of defendant,*) of the city, (town, township, or parish) in the district of

For that whereas the (*name of Defendant*) did at the city (*town, township or parish*) of _____ in the district aforesaid on _____ and at sundry times before and since (*here state succinctly the offence*), contrary to the statute in such case made and provided : Whereby and by the force of the said statute the said _____ hath become liable to pay the sum of _____ dollars.

Wherefore the said License Inspector prays judgment in the premises and that the said _____ may be condemned to pay the sum of _____ dollars for the said offence with costs.

FORM J.

FORM OF SUMMONS.

Province of Quebec, }
District of _____ }

To (*name of Defendant*), of the (city, town, township or parish,) of (*name of the city, town, parish or township*), in the district of (*name of district*.)

You are hereby commanded to be and appear before us the undersigned justices or justice of the peace for the said district (*or as the case may be*) at (*name of place*), on the _____ day of _____ at the hour of _____ of the clock in the noon, to answer then and there to the complaint made against you by License Inspector, (*or as the case may be*), who prosecutes you in Her Majesty's name and behalf, for the causes mentioned in the declaration, hereunto annexed—otherwise judgment will be given against you by default.

Given under my hand and seal, this _____ day of _____ in the year of Our Lord, one thousand eight hundred and _____ at _____ in the district of _____

J. P.

CERTIFICATE OF SERVICE OF SUMMONS.

I, the undersigned _____, do hereby certify, upon my oath of office, that on the _____ day of _____, I did serve the within summons, and the declaration thereto annexed, on the within named defendant, at the hour of _____ of the clock in the _____ noon, by leaving a true and certified copy of the said summons and of the declaration, at the domicile of the said defendant, in the _____ speaking to _____ of _____, on the _____ day of _____ 18____

NOTE.—If the service be not made by a bailiff, insert "being duly sworn do make oath and certify, instead of "do hereby, certify under my oath of office," and after the signature add :
"Sworn before me, at _____ this _____ day of _____ 18____"

FORM K.

FORM OF CONVICTION.

Province of Quebec, }
District of }

Be it remembered, that on the _____ day of _____, in the year one thousand eight hundred and _____, at *(name of place where convicted,)* in the said district, *(name of defendant,)* is convicted before the undersigned *(one)* of Her Majesty's justices of the peace for the said district, for that he, the said *(name of defendant,)* did *(state the offence succinctly of which he or they were convicted)* and *(I or we)* adjudge the said *(name of defendant)* for his said offence, to forfeit and pay to _____ the sum of _____, and also to pay to the said _____ the sum of _____ for his costs in this behalf.

Given under _____ hand and seal, the day and year first above mentioned.

Signature, J. P. [*Seal or Seals*]
or Signatures.

NOTE.—*The copy left with or to the defendant is to be certified as a "true copy" by the justice or justices.*

FORM L.

FORM OF WARRANT OF DISTRESS.

Province of Quebec, }
District of }

(Name of justice) Esquire, one of Her Majesty's justices of the peace in and for the said district.

To any Bailiff, or Constable in and for the said district:

Whereas *(name of defendant)* of the parish of *(name of parish or township)*, in the said district, hath been convicted before *(one)* of Her Majesty's justices of the peace for the said district, of having *(state the offence)* whereby the said *(name of defendant)* hath forfeited, and hath by the said justice been adjudged to pay the sum of _____ dollars _____ cents, and further the sum of *(amount of the costs allowed by me)* the said Justice allowed and adjudged to be paid by the said *(defendant)* to *(name of officer,)* License Inspector, *(or as the case may be)* for costs by him laid out about the conviction aforesaid; * These are therefore to command and require you, and each and every of you, to distrain the goods and chattels of the said *(name of defendant)* wheresoever they may be found within the said district; and on the said goods and chattels so distrained to levy the said penalty and costs making together the sum of _____ dollars _____ cents:

such movables and effects, or in case they be insufficient, that the said be imprisoned in the common gaol, at the of in the district aforesaid, for a period of three months, unless the said fine and costs and charges of such seizure and sale, of arrest, commitment and conveying the said to the said common gaol, be sooner paid;

And whereas, afterwards, on the day of in the year aforesaid, I issued a warrant to all or any of the bailiffs, constables, or other peace officers of the district of commanding them or any of them to levy the said fine and costs by seizure and sale of the movables and effects of the said

And whereas it appears to me, by the return of the said warrant, by the constable who had the execution of the same, that the said constable hath made diligent search for the movables and effects of the said but that no sufficient movables and effects whereon to levy the said fine and costs above mentioned, could be found (or, that the said movables and effects are insufficient to pay the whole of said fine and costs.)

These are therefore to command you, the said bailiffs or constables, or any one of you, to take the said and h safely convey to the common gaol at the of in the district of , and then deliver h to the keeper thereof, together with this warrant.

And I do hereby command you, the said keeper of the said common gaol, to receive the said into your custody, in the said common gaol, and there to imprison h for the space of three months from the date of h arrival as a prisoner thereat, unless the said fine and costs and all costs of the warrant of seizure and sale, and of the arrest, commitment and conveying the said to the said common gaol, amounting to the further sum of dollars and cents be sooner paid unto you the said keeper of the said common gaol.

And for so doing, this shall be your sufficient warrant.

Given under my hand and seal, at the of , in the said district, this day of in the year of Our Lord one thousand eight hundred and

(Signature)

(title of magistrate.)

FORM N. (*As substituted by 43-44 Vic., c. 11, s. 46.*)

WARRANT OF COMMITMENT IN THE FIRST INSTANCE.

Province of Quebec, }
District ofTo any bailiff or constable in and for the said district of
and to the keeper of the common gaol in the said district ofWhereas (*name of defendant*) of the of
hath been convicted on the day of
in the year of Our Lord one thousand eight hundred and
before (*name and title of magistrate who rendered judgment*) esquire, for the district of of having (*recite offence*) contrary to the provisions of the statute in such case made and provided and for such offence hath been adjudged to pay forthwith, to License Inspector for the division of the district of (the prosecutor,) the sum of as a fine, to be applied according to law, and also the further sum of dollars and cents, for his costs in that behalf; and in default of such payment being made as aforesaid, to be imprisoned in the common gaol at the of in the said district, for a period of three months, unless the said fine and costs be sooner paid; and whereas the said hath failed to pay the said fine and costs:

These are therefore to command you, the said bailiffs or constables, or any one of you, to take the said and h safely convey to the common gaol at the of in the district of and then deliver h to the keeper thereof, together with this warrant.

And I do hereby command you, the said keeper of the said common gaol, to receive the said into your custody, in the said common gaol, and there to imprison h for the space of three months from the day of h arrival as a prisoner thereat, unless the said fine and costs and all costs of the arrest, commitment and conveying the said to the said common gaol, amounting to the further sum of dollars and cents be sooner paid unto you the said keeper of the said common gaol.

And for so doing, this shall be your sufficient warrant.

Given under my hand and seal, at the of
, in the said district, this day of
in the year of Our Lord one thousand eight hundred and eighty

(Signature)

(Title of magistrate.)

FORM O. (*Added by 43-44 Vic., c. 11, s. 46.*)

CONVICTION ORDERING IMPRISONMENT.

Province of Quebec, }
District of

Be it remembered, that on the day of
in the year of Our Lord one thousand eight hundred and
at the of in the district of
(*name, occupation and residence of defendant*),

of the of
in the district aforesaid,
is convicted before the undersigned (*title of magistrate*) for the
district of , for that he the said (*recite*
offence) contrary to the provisions
of the statute in such case made and provided.

And I, the said do adjudge the said
for h said offence, to
forfeit and pay to of , in the district
aforesaid, license inspector for the
division of the district of (the prosecutor), the
sum of dollars, as a fine, to be applied accord-
ing to law, and also to pay to the said
the sum of dollars and
cents for his costs in this behalf.

And whereas the said prosecutor hath made option that the
said (*name of defendant*) be committed to the common gaol at
the of in the said district
for a period of three months, unless the said fine and costs be
paid forthwith : I do therefore order and adjudge that in default
of immediate payment of the said several sums, the said
be committed to the common
gaol at the said of months, unless the said
several sums of money, and costs and charges of arrest, of com-
mitment, and of the conveying the said
to the said common gaol, shall be sooner paid.

Given under my hand and seal, the day and year first above
mentioned, at the of in the district
of aforesaid.
(Signature) (*title of magistrate.*)

SCHEDULE P. (*Added by 43-44 Vic., c. 11, s. 46.*)

WARRANT OF SEIZURE AND SALE.

Province of Quebec, }
 District of }

To any bailiff, peace officer, or constable in and for the district of

Whereas (*name of defendant*) of the of
 in the district of hath been convicted on the
 day of in the year of Our Lord one thousand eight
 hundred and before esquire,
 for the district of , of having (*recite offence*)
 contrary to the provisions of the statute in such case made and
 provided and for such offence hath been adjudged to pay to
 license inspector for the
 division of the district of (the prosecutor), the
 sum of as a fine, to be applied according to law, and
 also the further sum of dollars and cents, for
 his costs in that behalf; and in default of immediate payment of
 such fine and costs that the same be levied by a warrant of sei-
 zure and sale of the movables and effects of the said ;
 and in default of such movables and effects, or in case of their
 being insufficient, that the said be imprisoned
 in the common gaol at the of in the
 district of for a period of three months, unless the said
 fine and costs, and costs and charges of such seizure and sale,
 and of arrest, commitment and conveyance of said
 to said common gaol, be sooner paid: and whereas the said
 being required to pay the said fine and costs, doth
 now fail to pay the same:

These are therefore to command and require you, and each
 and every of you, to seize the movables and effects of the said
 wheresoever they may be found within the said
 district, and on the same to levy the said fine and costs, making
 together the sum of dollars and cents, cur-
 rency. And if within the space of four days next after such sei-
 zure so made by you, the said last mentioned sum of
 dollars and cents, together with the reasonable charges
 of taking and keeping the said movables and effects are not paid,
 that then you do sell the same; and out of the money arising
 from such sale, that you do pay the said sum of dollars
 and cents, unto the said License Inspector, returning to
 the said the overplus, if any; the reasonable charges
 of taking, keeping and selling the said movables and effects

being first deducted therefrom. And if such movables and effects belonging to the said cannot be found, or in case the same should be insufficient, that you certify the same unto me, to the end that such further proceedings may be had thereon as to law and justice doth appertain. And you are to certify unto me with the return of this warrant what you shall have done in the execution thereof.

Herein fail not.

Given under my hand and seal, at the of
in the district of this
day of in the year of Our Lord one thousand eight
hundred and eighty
(Signature) (title of magistrate).

SCHEDULE Q. (Added by 43-44 Vic, c. 11, s. 46.)

CONVICTION ORDERING SEIZURE.

Province of Quebec, }
District of }

Be it remembered, that on the day of
in the year of Our Lord one thousand eight hundred and
at the of in the district of
(name, occupation and residence of defendant) of the
of in the district aforesaid, is
convicted before the undersigned (title of magistrate) for the dis-
trict of for that he the said (recite offence)
contrary to the provisions of the statute in such case made and
provided.

And I, the said do adjudge the said
for h said offence, to forfeit and pay to
of the of
in the district aforesaid, License Inspector for the
division of the district of, (the prosecutor), the sum
of dollars, as a fine, to be applied according
to law, and also to pay to the said the sum
of dollars and cents, for his costs
in this behalf.

And whereas the said prosecutor hath made option that the
said (name of defendant) be first proceeded against by seizure, in
default of immediate payment of such fine and costs I, the said
(title) do hereby order and adjudge that in default of immediate
payment of the said fine and costs, the same be levied by a war-
rant of seizure and sale of the movables and effects of the said

And in default of such movables and effects, or in case they be

a certain part of the revenues and profits of the real estate which he occupies ; and such tenant must be *tenant feu et lieu* save in the case of the lessee of a shop, work-shop or office ;

6. The word " registrar, " means the registrar of the registration division, which comprises within its limits the electoral district in which the election is held. It also means the registrar of the registration division, comprised within the limits of such electoral district, or the limits whereof are the same as those of the electoral district ;

7. The term " voting sub-division, " means, for voting purposes, every municipality whereof the number of parliamentary electors entered on the list in force does not exceed three hundred ;

8. The words " to vote, " mean to vote at the election of a member of the legislative assembly of this province ;

9. The expression " electoral district, " means any county or other place or portion of this province, entitled to return a member of the legislative assembly ;

10. The term " election officer, " means the returning officer, the election clerk, and all deputy returning officers and poll clerks, appointed for an election ;

11. The term " personal expenses " employed in relation to the expenditure of a candidate, respecting any election in which he is candidate, means all the reasonable travelling expenses of such candidate, and his reasonable expenses at hotels and other places to which he may repair, for the purposes of and in regard of such election.

3. Any form indicated by a capital letter, in the various provisions of this act, refers to the corresponding form contained in the schedule annexed to this act.

Any of the forms contained in such schedule is sufficient in the case for which it is intended. Any other form, having the same meaning, may be employed with equal effect.

4. Any reference to one or more sections indicated in the provisions of this act, without mention of the act or statute of which such sections form part, is a reference to the sections of this act.

5. If the time fixed by this act for the accomplishment of any proceeding or formality, prescribed by the provisions thereof, expires or falls upon a Sunday or legal holiday, the time so fixed shall be continued to the first day following, not a Sunday or holiday.

6. Every person before whom any oath must be taken or affirmation made, under the terms of this act, is empowered, and shall be bound whenever the same is required of him, to administer such oath or affirmation, and to give a certificate thereof, without fee or reward.

FIRST PART.

PARLIAMENTARY ELECTORS.

I.—CONDITIONS REQUISITE TO BE AN ELECTOR.

7. No person shall be entitled to vote at the election of a

member of the legislative assembly of this province, unless at the time of voting, he be an elector entered as owner, tenant or occupant, upon the list of electors in force.

8. No person shall be entered upon the list of electors, unless he fulfils the following conditions :

1. He must be of the male sex, of full age, and a subject of Her Majesty by birth or naturalization ;

2. He must not be otherwise legally incapacitated ;

3. He must be actually and in good faith owner or occupant of real estate, estimated, according to the valuation roll in force, as revised if it has been revised even for local purposes only, at a sum of at least three hundred dollars in real value, in any city municipality entitled to return one or more members of the legislative assembly, and two hundred dollars in real value, or twenty dollars in annual value, in any other municipality, or

Be a tenant in good faith, paying an annual rent for real estate, of at least thirty dollars in any city municipality entitled to return one or more members of the legislative assembly, and of at least twenty dollars in any other municipality ; provided that such real estate be estimated according to such valuation roll, in real value at, at least three hundred dollars in any city municipality entitled to return one or more members of the legislative assembly, and two hundred dollars in any other municipality (1).

9. Whenever two or more persons are co-owners, co-partners in the property or possession, co-tenants or co-occupants of any real estate valued at an amount sufficient for the share of each to confer upon him the electoral suffrage, each of such persons shall be deemed to be an elector in conformity with this act, and entered upon the list of electors. He whose share does not amount to the value required for the electoral suffrage shall not be so entered nor be an elector.

The same rule applies to co-tenants, respecting the amount of rent which they pay. (2)

(1) HELD that under clause VIII, § 3 of the *Quebec Election Act*, the annual value of a real estate required by law is sufficient to give right to vote to the proprietor and to the occupant, even when the real value would not give such qualification ; but the rent required by law does not give right to vote to the tenant unless the property of which he is tenant has the real value required. — GRATON vs. LA CORPORATION DU VILLAGE STE. SCHOLASTIQUE, VII *Revue Légale*, 356.

(2) HELD that according to the electoral act of 1875, 1. the valuation roll is conclusive as regards the value of the property ; 2. no person can be on the list of voters if he is not on the roll ; 3. all persons who appear qualified by the roll must be on the list, except in cases of personal disqualification which cannot appear on the roll.

The municipal code teaches the manner of attacking the valuation roll, and in a collateral proceeding, as the contestation of electoral lists, a new contestation cannot be raised on what has been finally decided touching such roll.

The secretary-treasurer has no right to correct the valuation roll. This roll is his only guide.

The date of the qualification of a voter is that of the list, and it is where the list is being made by the secretary-treasurer, that the qualification must exist and appear in the roll.

A and B possess jointly and by equal shares a property valued by the roll to \$200

10. Nevertheless if the real estate is owned or occupied by a corporation, no one of the members of the corporation shall be an elector nor entered upon the list of electors, by reason of such real estate.

II.—PERSONS WHO CAN NEITHER BE ELECTORS NOR VOTERS.

11. The following persons can, in no case, be electors or vote ;

1. The judges of the Court of Queen's bench and of the Superior Court, the judge of the vice-admiralty court, the judges of the sessions, district magistrates, recorders ;

2. Officers of the customs, clerks of the crown, clerks of the peace, registrars, sheriffs, deputy-sheriffs, deputy-clerks of the crown and the officers and men of the provincial or municipal police force ;

3. Agents for the sale of crown lands, postmasters in cities and towns, and all officers employed in the collection of any duties payable to Her Majesty, in the nature of duties of excise, including collectors as well of federal as of local revenue.

If any of the persons set forth in this section vote, save in the case of section 205, he shall incur a penalty of not more than five hundred nor less than one hundred dollars, or imprisonment not exceeding twelve months in default of payment, and his vote shall be null and of no effect.

III.—LIST OF PARLIAMENTARY ELECTORS.

1. Preparation of the list.

12. The secretary-treasurer of each municipality shall between the first and fifteenth days of the month of March in each year, make in duplicate, a list in alphabetical order, of all persons, who according to the valuation roll, then in force in the municipality for local purposes, and as revised if it has been revised even for local purposes, appear to be electors, by reason of the real estate possessed or occupied by them, within the municipality.

13. The secretary-treasurer, in drawing up the list of electors, shall distinguish the persons, who appear to be qualified as owners, from those who appear to be qualified as tenants or occupants, and shall specify the real estate, through which such persons are electors.

or \$300. Neither one nor the other ought to be put on the list. In the same way, if A and B are both and equally tenants of a property for which they pay annually, according to the roll, \$20. or \$30., neither one nor the other can be placed on the list. In the first case, to allow both to vote, the property should be valued at \$400, in the least. In the second case, to give a vote to both, the rent must be of at least \$40. But if A and B possess together a property of \$300, but A for one third and B for two thirds, B will vote, but not A. The same rule will apply to rents.—*In re LES LISTES ÉLECTORALES DU COMTÉ DE KAMOURASKA*, III *Quebec Law Rep.*, 308.

14. (*As amended by 39 Vic., c. 13, s. 2.*) The secretary-treasurer shall omit from the list of electors, every person, who under sections 11, 267 and 270 or any other legal provision whatsoever, is not then entitled to vote.

15. If any municipality is situated partly in one electoral district and partly in another, the secretary-treasurer shall prepare in the same manner for each of such electoral districts an alphabetical list of the persons who are electors therein.

16. If the municipality is divided into voting sub-divisions under sections 59, 60 or 61, the secretary-treasurer shall divide the list into as many parts, as there are voting sub-divisions in the municipality.

Each such part, the title whereof shall be the name, number, or description of the voting sub-division to which it relates, shall only contain the alphabetical list of the electors of such voting sub-division.

17. If a person is an elector, in one and the same municipality from more than one parcel of real estate, or from more than one title, his name shall nevertheless be entered but once on the list of electors of the municipality.

If the list is drawn up by sub-divisions and one person is an elector in more than one sub-division, his name shall be inserted in one sub-division only; and if such person is an elector in the sub-division of his domicile, his name shall be entered on the list for such sub-division.

18. In the case of section 15, if a person is an elector in more than one electoral district, his name shall be entered in the list of each electoral district, in which he is an elector, according to the rules laid down in the preceding section.

19. The secretary-treasurer shall certify the correctness of the list of electors by him made, by the following oath, taken before a justice of the peace:

"I (*name of the secretary-treasurer*) swear that to the best of my knowledge and belief, the foregoing list of electors is correct, and that nothing has been inserted therein or omitted therefrom, unduly or by fraud: So help me God."

Each duplicate list must be attested separately under the foregoing oath.

20. One of the duplicates of the list so attested shall be kept in the office of the secretary-treasurer, at the disposal and for the information of all persons interested.

21. The secretary-treasurer, on the day upon which he shall take the oath required by the section before the last, shall give and publish public notice, setting forth that the list of electors has been prepared according to law, and that a duplicate thereof has been lodged in his office, at the disposal and for the information of all persons interested.

Such notice shall be given and published in the same manner

as notices for municipal purposes, in the municipality in which the list has been prepared.

22. The list of electors may be drawn up in accordance with form A.

23. If the secretary-treasurer has not made the alphabetical list of electors, or has not given and published the notice required by section 21, in the first fifteen days of the month of March, then the judge of the Superior Court for the district, or in the event of the absence of the district judge, or of his inability to act, the district magistrate, on summary petition from the mayor, the registrar or other person entitled to be entered as an elector in the municipality, shall appoint a clerk *ad hoc* to prepare the alphabetical list of electors.

24. The secretary-treasurer shall be personally liable for the costs incurred on such petition, and for those incurred in drawing up the list by the clerk *ad hoc*, unless the judge or the district magistrate, for special reasons, deem it advisable to order otherwise, and in such case, the costs shall be left to their discretion.

The secretary-treasurer may however draw up and prepare the list, so long as the clerk *ad hoc* shall not have been appointed.

25. The clerk *ad hoc* shall proceed, within fifteen days after notice of his appointment, to the preparation of the list of electors. He shall, for such purpose, become an officer of the municipal council, and shall have the same powers to exercise, and the same duties to discharge, as the secretary-treasurer of the municipality, and shall do so under the same penalties in case of default or neglect on his part.

26. (As replaced by 39 Vic., c. 13, s. 3.) The mayor and the officers of the council, in so far as the same is incumbent upon them, shall be bound to deliver to the clerk *ad hoc* on his demand, the valuation roll, which is to avail, as the basis of the list of electors, under a penalty not exceeding two hundred dollars, or in default of payment, of imprisonment not to exceed six months.

2. Examination and putting into force of the list.

27. (As replaced by 39 Vic., c. 13, s. 4.) The list of electors may be examined and corrected by the council of the municipality, in the thirty days next after the publication of the notice, given in virtue of section 21, upon complaint in writing to such effect, under either of the two sections following, and not otherwise.

28. Any person who deems himself aggrieved either by the insertion in, or omission of his name from the list, may, either by himself or through his agent, file a complaint in writing to such

effect, within the fifteen days next after the publication of the notice given under section 21.

29. (*As replaced by 39 Vic., c. 13, s. 5.*) Any person believing that the name of any person entered on the list, should not have been so entered, owing to his not possessing the qualifications required for an elector, or believing that the name of any other person, not entered thereon, should be so entered, owing to his possessing the qualifications required, may file a complaint in writing to such effect within the same delay of fifteen days.

30. The council, before proceeding to any examination or correction of the list of electors, shall cause to be given, through the secretary-treasurer, the clerk *ad hoc*, or any other person, public notice of the day and hour at which such examination shall begin.

He shall also, previous to taking into consideration the complaints in writing filed in the office of the council, with respect to the list of electors, cause a special notice to be given to every person, the insertion or omission of whose name upon the list is demanded.

The public notice and every special notice required by this section shall be of five days' duration; and they shall further be given and published or served, in the same manner as notices for municipal purposes, in the municipality, within which the list has been prepared.

31. The council on proceeding to the examination of the list shall take into consideration all the complaints in writing relating to the said list, and hear all persons interested.

32. The council by its decision on each complaint, may confirm or correct each of the duplicates of the list.

33. If, upon proof, the council is of opinion that a property has been leased, assigned or made over under any title whatsoever, with the sole object of giving to a person the right of having his name entered on the list of electors, it shall strike the name of such person from the said list, upon complaint in writing being made to that effect. (1)

34. Every insertion, erasure or correction whatsoever of the

(1) Complaints can be made to the council against the list prepared by the secretary-treasurer, or appeal to the judge of the decision of the council on such complaints:

1. Under sect. 33 of the *Quebec Election Act*, which enacts that if, on proof, the council is of opinion that a property has been leased, sold or transferred for the sole purpose of giving to a person the right to vote, it shall strike off the name of the party upon a written complaint to that effect.

2. On facts depriving of the right to vote some person which otherwise would have all the required qualifications, when such facts cannot appear neither by the valuation roll nor by the electoral list, as if there was inscribed on the list a person which is not a subject of Her Majesty, or is affected of legal incapacity, for example interdicted by reason of mental alienation, or a felon.

3. If the secretary-treasurer has placed on the list a person who has not the right to vote according to arts. 11, 267 and 270 of the *Quebec Election Act*, sect. 14, amended by 39 Vic., ch. 13, sect. 2.

4. If the secretary has omitted some person which, *by the roll*, has right to vote

list, in virtue of the two preceding sections, shall be authenticated by the initials or *paraphe* of the presiding officer of the council.

35. The list of electors shall come into force at the expiration of the thirty days following the notice given in virtue of section 21, as it then exists, and shall remain in force until the month of March next, and thereafter until a new list is made and put in force under the authority of this act.

If there is an appeal to a judge of the superior court or to a district magistrate, in districts in which there is no judge of the superior court, touching a portion of the list, such portion of the said list shall remain in force notwithstanding such appeal, until the final decision of the court, before which the said petition in appeal is pending.

36. Every list of electors so put in force shall, during the whole period in which it remains in force, be deemed the only true list of parliamentary electors, within the territorial division to which it relates, even although the valuation roll which has served as the basis of such list be defective or shall have been quashed or set aside; saving nevertheless any correction made under section 44.

37. It shall be the duty of the secretary-treasurer, as soon as the list of electors has come into force, to insert at the end of such list, on the duplicates thereof, the certificate set forth in form B.

38. One of the duplicates of the list of electors shall be kept in the archives of the municipality, and shall there remain of record.

The other duplicate shall be transmitted to the registrar of the registration division, in which is situated the municipality, within eight days following the day upon which such list shall have come into force, by the secretary-treasurer, or by the mayor, under a penalty of two hundred dollars, or of imprisonment of six months in default of payment, against each of them, in case of contravention of this provision.

Nevertheless the transmission of the duplicate of the said list to the registrar after the delay prescribed by this section, or the fact of the same not having been transmitted, shall not have the effect of invalidating such list.

39. If, in lieu of the duplicate required by the preceding section, a certified copy of the list has been transmitted to the, regis-

and is not otherwise disqualified; or if he has inserted the name of a party which, by the roll, appears not qualified.

5. On facts which may affect the right to vote and which do not appear on the roll, as, for example, if a tenant does not keep *feu et lieu*. (*Election Act of 1875, s. 11, § 5.*)

The curate, as occupying the presbytery, is not an occupant according to the meaning of the Election Act, since the presbytery is not a taxable property. It is on the taxable properties only that the electoral census is established. — *In re LES LISTES ÉLECTORALES DU COMTÉ DE KAMOURASKA*, III *Quebec Law Rep.*, 308.

trar, such copy shall be deemed to be the duplicate required, and shall have the same effect as if the duplicate had itself been transmitted.

40. All duplicates or copies of lists of electors transmitted to the registrar under the two preceding sections, shall be preserved by such officer, and shall remain of record in his office.

The registrar on receipt of the said duplicates or copies shall enter upon each the date of the reception thereof.

3. *Appeal to a judge of the superior court or to the district magistrate.*

41. (*As replaced by 39 Vic., c. 13, s. 6.*) Any person may appeal from any decision of the council correcting or amending the list, to the judge of the superior court for the district, within the fifteen days following such decision, by petition in which shall be briefly set forth his grounds of appeal.

42. (*As replaced by 39 Vict., c. 13, s. 7.*) If the council has neglected or refused to take into consideration, within the time prescribed, a complaint duly filed, any person may appeal to such judge therefrom, in the manner and within the delay prescribed in the preceding section.

43. A copy of the petition in appeal shall be served upon the secretary-treasurer of the municipality, who shall immediately give special notice thereof to the mayor, and public notice to the parties interested.

44. The judge of the superior court shall have full power and authority to hear and decide such appeal, in a summary manner, on any day which he shall fix, and shall proceed without delay, from day to day, in term or in vacation.

Such appeal shall have precedence over other causes.

45. He may also order that further notice be given to any of the parties to the cause, summon before him and question under oath or affirmation any party or witness, and require the production of any document, paper or thing. He shall possess all the powers conferred upon the superior court in relation to matters pending before that court.

46. No proceedings on such appeal shall be annulled for defect of form.

47. The costs of appeal shall be taxed at the discretion of the judge, for or against such of the parties as he shall deem advisable, and shall be recoverable under a writ of execution issued in the usual manner.

48. The decision of the judge shall be final.

49. The secretary-treasurer and the registrar, shall each correct the duplicate of the list of electors in his possession, according to the decision of the court, immediately upon authentic copies thereof being served upon them.

50. In any district in which there is no resident judge of the superior court, the appeal specified in sections 41 and 42, may

moreover be brought before the district magistrate for such district, in the same manner and with the same effect as before the judge of the superior court.

4. *Miscellaneous provisions.*

51. If, at any time it is made to appear to any judge of the superior court, in term or in vacation, that the secretary-treasurer of any municipality, or the registrar of the registration division, have altered or falsified, or have permitted to be altered or falsified the duplicate of the list in their possession, the judge shall require the secretary-treasurer, the registrar and every person having the custody of the valuation roll, which served as the basis of the list, to appear before him and to produce the rolls and lists in their possession.

52. At the time and place fixed for the appearance of such persons, the judge after having examined the duplicates of the list produced by the secretary-treasurer and the registrar, together with the valuation roll, shall, with or without further proof, make the alterations or corrections, which he shall deem necessary, to render the duplicate, so altered or falsified, accurate and faithful.

53. It shall be the duty of the secretary-treasurer of every municipality and of the registrar of every registration division having the custody of a list of electors, to deliver certified copies thereof to any person applying therefor, and offering to pay for the cost of any such copy, three cents for every ten electors entered on the list.

54. The secretary-treasurer of every municipality shall furnish *gratis* on demand, to every deputy returning officer acting within the limits of the municipality, a certified copy of the list of electors to avail at the election, or of that part of such list, which relates to the locality for which he acts as deputy returning officer.

55. The cost of all copies of the list of electors given by the registrar, in consequence of the secretary-treasurer having refused or neglected to furnish the same, under the preceding section, may be recovered from the secretary-treasurer or the corporation whose officer he is, either by the registrar who has given the copies, or by the returning officer or deputy returning officer who shall have procured the same.

56. (*As replaced by 40 Vic., c. 27, s. 1*) Every secretary-treasurer, who has refused or neglected to make the alphabetical list of electors as required by this act, or who having made the list, has willfully inserted therein or omitted therefrom any name which should not have been so inserted or omitted therefrom, shall incur a penalty not exceeding five hundred dollars or imprisonment not exceeding twelve months in default of payment.

57. (*As replaced by 40 Vic., c. 27, s. 1*) Every person having the custody of electors' lists and whose duty it is to deliver copies thereof who shall have made any insertion or omission in the preceding sections in the copies furnished by him, shall incur the penalty prescribed in the last preceding section.

58. Every list of electors made for any municipality, and in force at the time of the coming into force of this act, shall continue, even although the valuation roll which has served as basis for such list is defective or is quashed or annulled, to avail and to remain in force, until it is replaced by a new list of electors made under the authority of this act.

IV.—DIVISION OF THE MUNICIPALITY INTO VOTING SUB-DIVISIONS.

59. (*As amended by 39 Vic., c. 13, s. 8*) Whenever in any municipality, the number of electors shall exceed two hundred, it shall be the duty of the council of such municipality to divide, by a by-law made in the ordinary way, the municipality into voting sub-divisions, so that there shall not be more than two hundred electors in each voting sub-division.

The limits of these sub-divisions shall be well defined, and shall not divide any real estate under which an elector is entitled to vote.

60. (*As amended by 39 Vic., c. 13, s. 8*) Whenever any one of such voting sub-divisions shall contain more than two hundred electors, it shall be the duty of the council to subdivide by by-law, such voting sub-division, into others not containing more than two hundred electors each.

61. The council may, always and at any time, for the greater convenience of the electors, amend or repeal any by-law made under the two last sections, and may make a new division as provided by section 59.

62. No by-law made under the three preceding sections, shall be appealed from to the county council.

63. Every by-law or municipal order dividing a municipality into voting sub-divisions or other analogous sub-divisions, in force upon the coming into effect of this act, shall remain in force until the same is replaced or repealed under the authority of this act.

64. The list of municipal electors of the city of Montreal, as annually drawn up, revised and closed, under the authority of the acts now in force in relation to the same, shall be for all purposes, the list of parliamentary electors,—including therein such persons as shall have been struck from the municipal list for default of payment of municipal taxes within the delay prescribed.

SCHEDULE.

A

FORM MENTIONED IN THE 22ND SECTION.

PROVINCE OF QUEBEC, }
MUNICIPALITY OF (the parish of St. }
James, in the County of Levis.) }

List of Parliamentary Electors.

Voting Sub-Division Number One.

Surnames.	Names.	Occupations.	Proprietors, Tenants or Occupants.	Description of Immovable.
Aubin	Jean Baptiste.....	Farmer	Proprietor	<i>Des Pins Concession.</i> Township of Ely, 3rd range, No. 19. Côte St. Michel.
Bedard	Joseph.....	Merchant	Tenant.....	
Charette	Jacques.	Gentleman ..	Occupant.....	

Voting Sub-Division Number Two.

Araud	Paul	Notary	Proprietor	St. Amable Street, No. 4.
Beland	Jérémie	Advocate	Tenant.....	St. Peter Street, No. 10.
Carreau, senior	Homère.....	Shoemaker ..	Occupant	" " No. 11.
Carreau, junior	Homère.....	Blacksmith..	Proprietor	St. Paul Street, No. 9.

Made in duplicate this day of the month of eighteen hundred and I. P. P., swear that to the best of my knowledge and belief, the foregoing list of electors is correct, and that nothing has been inserted therein or omitted therefrom, unduly or by fraud: So help me God.

Sworn this day of 18 , before the }
undersigned F. F., Justice of the Peace. }
P. P.,
Secretary-Treasurer.

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OF THE

MUNICIPAL CODE

OF THE

PROVINCE OF QUEBEC.

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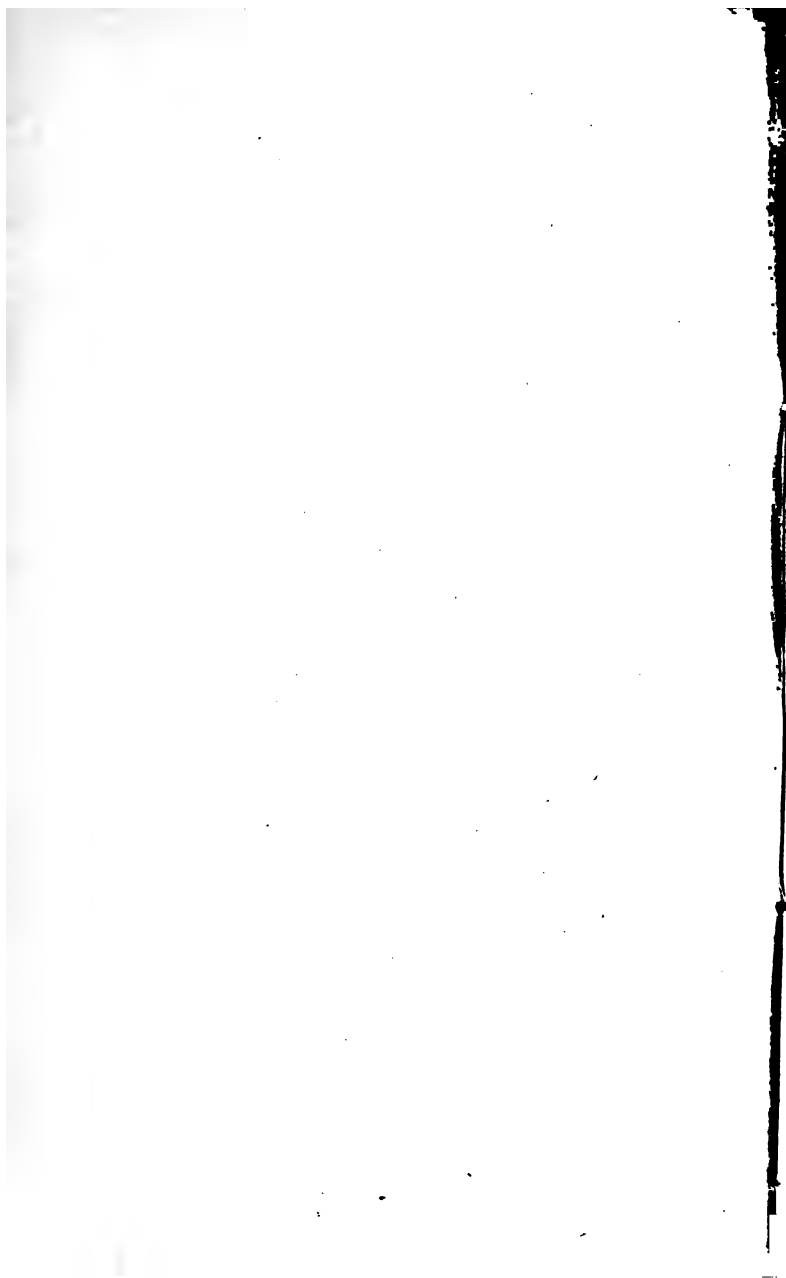


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